

For the Years Ending
Aug.31,1918. Aug.31,1919

supervision of the State buildings and for
traveling expenses of the three assistants
named above, and the State Inspector of
Masonry\$ 3,775.00 \$ 3,775.00

Miscellaneous Claims—

To pay balance to R. E. Miller for construction of septic tank for the State Orphan's Home	257.44
To pay the following claims presented by the Superintendent of the State Orphan's Home, to wit:	
Morris & Company.....	60.08
S. W. Electric Company.....	15.50
W. H. Richardson & Company.....	13.00
Kirby Instrument Company.....	372.18

Sec. 2. Provided, that no money herein or hereby appropriated for any purpose shall be paid to any person directly or indirectly who is not at the time of receiving such pay, remuneration or emolument, a citizen of the United States under the laws of the United States. Provided, however, that this Act shall not apply to any person who is not a citizen of the United States under the naturalization laws of the United States who has resided in Texas for a period of ten years and who shall within thirty days after this Act shall take effect make application to become a citizen of the United States, and who shall within two years after making such application become a citizen of the United States; this provision shall apply to and govern all appropriations made in this entire Act.

Provided, that the head of said department keep a record of the absences of the various employes and the reasons therefor, whether from sickness, vacation or on leave of absence, and said record shall be incorporated in the report made annually by the head of said department.

The appropriations herein provided for are to be construed as the maximum sums to be appropriated to and for the several purposes named herein, and no expenditures shall be made, nor shall any obligations be incurred which, added to the actual expenditures, will exceed the amounts herein appropriated for either of the said purposes, except under the provisions provided for in Article 4342 of Chapter 2, Title 65, of the Revised Civil Statutes of 1911.

Provided, that no money herein or hereby appropriated for any purpose

shall be paid out to any person, directly or indirectly, upon any agreement or contract made or existing between such person and the board authorizing the payment of the same, where any member of such board is of kin to such person by blood or marriage or where such person is directly or indirectly indebted to any member of such board.

Sec. 3. All parts of laws heretofore passed making appropriations for the identical items covered by this appropriation bill are hereby repealed.

Sec. 4. The fact that various errors were made in the enrollment of the various appropriation bills for the support of the State government, both of commission and omission, and that in some respects the appropriation as made do not conform to the statutes, and the fact that this is a called session of the Legislature which under the Constitution must end within a few days, creates an emergency and an imperative public necessity which requires that the constitutional rule providing that bills shall be read on three several days be suspended, and said rule is hereby suspended, and that this Act become effective from and after its passage, and it is so enacted.

THIRTEENTH DAY.

Senate Chamber,
Austin, Texas,
Tuesday, Sept. 18, 1917.

The Senate met at 9:30 o'clock a. m. pursuant to adjournment, and was called to order by President Pro Tem. Dean.

The roll was called, a quorum be-

ing present, the following Senators answering to their names:

Alderdice.	Hopkins.
Bailey.	Hudspeth.
Bee.	Johnson of Hall.
Buchanan of Bell.	Johnston of Harris.
Buchanan of Scurry.	Lattimore.
Caldwell.	McNealus.
Clark.	Page.
Collins.	Parr.
Dean.	Robbins.
Decherd.	Smith.
Floyd.	Strickland.
Gibson.	Suiter.
Hall.	Westbrook.
Harley.	Woodward.
Henderson.	

Absent—Excused.

Dayton. McCollum.

Prayer by the Chaplain.

Pending the reading of the Journal of yesterday, the same was dispensed with on motion of Senator Alderdice.

Excused.

Senator McCollum, for today, on account of important business, on motion of Senator Johnson of Hall.

Senator Dayton, for today, on account of important business, on motion of Senator Gibson.

Petitions and Memorials.

See Appendix.

Committee Reports.

See Appendix.

Bills and Resolutions.

There were none at this time.

Morning call concluded.

Senate Bill No. 19.

The Chair laid before the Senate on second reading:

S. B. No. 19, A bill to be entitled "An Act to amend Sections 2 and 14 of the Special Road Laws of Coleman County, Texas, approved

April 15, 1905, being House Bill No. 542, as amended by an Act, being House Bill No. 688, of the Special Laws of Texas, approved the _____ day _____, and as amended by an Act, being House Bill No. 52, of the Special Laws of Texas, approved June 4, 1915, which House Bill No. 542 is entitled 'An Act to amend Sections 2, 4, 6, 7, 9, 12 and 14 of the Special Laws of Texas, approved April 15, 1905, being House Bill No. 542, entitled An Act to create a more efficient road system for Coleman County, Texas,' etc., and declaring an emergency."

On motion of Senator Westbrook the bill was laid on the table subject to call.

Senate Bill No. 6.

The Chair laid before the Senate on second reading:

S. B. No. 6, A bill to be entitled "An Act to further regulate the conducting of fish hatcheries and the propagation of fish in this State by amending Article 4000 of the Revised Civil Statutes of this State, 1911, as amended by Chapter 146 of the Thirty-third Legislature, providing for the distribution by the State fish hatcheries of fish to private persons, providing that the Game, Fish and Oyster Commissioner of the State of Texas, as well as the United States Commissioner of Fisheries, or their duly authorized agents, may take or catch brood fish from the public fresh waters of this State, for the purpose of propagation; according to the United States Commissioner of Fisheries and his duly authorized agents the right to conduct fish hatcheries and fish culture and all operations connected therewith in any manner and at any time that may by them be considered necessary and proper; providing for a closed season on crappie, bass and catfish; prescribing the size of fish that may be taken; providing a penalty for a violation of this statute, and declaring an emergency."

The bill was read second time and passed to engrossment.

On motion of Senator Harley, the constitutional rule requiring bills to be read on three several days, was suspended and Senate Bill No. 6 put on its third reading and final passage by the following vote:

Yeas—23.

Alderdice.	Henderson.
Bailey.	Hopkins.
Bee.	Hudspeth.
Buchanan of Bell.	Johnson of Hall.
Buchanan of Scurry.	Johnston of Harris.
Clark.	McNealus.
Collins.	Page.
Dean.	Parr.
Decherd.	Smith.
Floyd.	Suiter.
Gibson.	Westbrook.
Harley.	

Absent.

Caldwell.	Robbins.
Hall.	Strickland.
Lattimore.	Woodward.

Absent—Excused.

Dayton.	McCollum.
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The bill was laid before the Senate, read third time and, on motion of Senator Harley, was passed by the following vote:

Yeas—24.

Alderdice.	Harley.
Bailey.	Henderson.
Bee.	Hopkins.
Buchanan of Bell.	Hudspeth.
Buchanan of Scurry.	Johnson of Hall.
Clark.	Johnston of Harris.
Collins.	McNealus.
Dean.	Page.
Decherd.	Parr.
Floyd.	Smith.
Gibson.	Suiter.
Hall.	Westbrook.

Absent.

Caldwell.	Strickland.
Lattimore.	Woodward.
Robbins.	

Absent—Excused.

Dayton.	McCollum.
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Senator Harley moved to reconsider the vote by which the bill was passed and table the motion to reconsider.

The motion to table prevailed.

Senate Bill No. 17.

The Chair laid before the Senate on second reading:

S. B. No. 17, A bill to be entitled "An Act validating the charters

and amendments to charters of all cities of more than five thousand inhabitants, in this State, which have adopted charters, or attempted to adopt or amend charters, since the enactment of Chapter 147, General Laws of the Regular Session of the Thirty-third Legislature, 1913, and validating all proceedings had by city councils or city commissions, or governing authority, in regard to the question of the adoption of charters or amendments thereto; and declaring an emergency."

The committee report that the bill be printed in the Journal only was adopted.

The bill was read second time and passed to engrossment.

On motion of Senator Bailey, the constitutional rule requiring bills to be read on three several days was suspended and Senate Bill No. 17 put on its third reading and final passage by the following vote:

Yeas—21.

Alderdice.	Hall.
Bailey.	Hopkins.
Bee.	Johnson of Hall.
Buchanan of Bell.	Johnston of Harris.
Buchanan of Scurry.	Lattimore.
Clark.	McNealus.
Collins.	Page.
Dean.	Smith.
Decherd.	Suiter.
Floyd.	Westbrook.
Gibson.	

Absent.

Caldwell.	Parr.
Harley.	Robbins.
Henderson.	Strickland.
Hudspeth.	Woodward.

Absent—Excused.

Dayton.	McCollum.
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The bill was laid before the Senate, read third time and, on motion of Senator Bailey, was passed by the following vote:

Yeas—22.

Alderdice.	Hall.
Bailey.	Harley.
Bee.	Hopkins.
Buchanan of Bell.	Johnson of Hall.
Buchanan of Scurry.	Johnston of Harris.
Clark.	Lattimore.
Collins.	McNealus.
Dean.	Page.
Decherd.	Smith.
Floyd.	Suiter.
Gibson.	Westbrook.

Absent.

Caldwell.	Robbins.
Henderson.	Strickland.
Hudspeth.	Woodward.
Parr.	

Absent—Excused.

Dayton.	McCollum.
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Senator Bailey moved to reconsider the vote by which the bill was passed and table the motion to reconsider.

The motion to table prevailed.

House Bill No. 9.

The Chair laid before the Senate, on second reading:

H. B. No. 9, A bill to be entitled "An Act amending Article 303, Revised Penal Code of Texas, 1911, providing limitations and exceptions upon and to the provisions of Article 302, Revised Penal Code, 1911, relating to selling, etc., on Sunday, so as to exempt from the provisions of Article 302, Penal Code, 1911, the selling, etc., of gasoline, and declaring an emergency."

On motion of Senator Collins the bill was laid on the table subject to call.

House Bill No. 5.

The Chair laid before the Senate on second reading

H. B. No. 5, A bill to be entitled "An Act to amend Chapter 105 of the Acts of the Regular Session of the Twenty-ninth Legislature, which Chapter is entitled 'An Act to prevent the diversion of electric current, water or gas, from passing through any meter, and prevent any electric, water or gas meter by any manner or means from registering the full amount of current of electricity, water or gas, that passes through it, and to prevent the diversion from any wire of electric current, water or gas, of any person, corporation, or company engaged in the manufacture or distribution of electricity, water or gas, for lighting, power or other purposes; and to prevent the retaining of, or refusing to deliver any meters, lamps or other appliances which may have been loaned or supplied for furnishing electricity, water or gas; and to prescribe a penalty for the violation thereof';

so amending said Chapter as to make the presence on or about such meters, wires and pipes, of any device for the diversion of electric current, water or gas, or for the prevention of the proper action, or registration of the meter prima facie evidence of intention on the part of the user to defraud, within the scope of such Chapter and so amending said Act as to effect more fully the purpose thereof, and to repeal all laws in conflict herewith."

On motion of Senator Bee the bill was laid on the table subject to call after the conclusion of the morning call tomorrow.

The Senate as Court of Impeachment.

PROCEEDINGS.

Tuesday, September 18, 1917.

Morning Session.

Senate Chamber, Austin, Texas.

(Pursuant to adjournment, the Senate, sitting as a High Court of Impeachment, reconvened at 10:00 o'clock a. m.)

The Board of Managers and their Counsel were present.

The Respondent and his Counsel were present.

The Chair: The hour has arrived for the convening of the Court of Impeachment. The Sergeant-at-Arms will proclaim the convening of the Court of Impeachment, and will see that the Chamber is cleared of all except those entitled to its privileges. Proclaim the convening of the Court.

Sergeant-at-Arms (at the door of the Senate): Oyez! Oyez! Oyez! the Senate sitting as a Court of Impeachment is now in session.

The Chair: Now, Mr. Sergeant-at-Arms, I want you and your assistants to see that the Chamber and the Bar are kept cleared of all those except those entitled to remain within the Bar. Let us have order, gentlemen.

Mr. Hanger: Take the stand, Governor.

Thereupon,

JAMES E. FERGUSON,

resumed the witness stand, and in answer to questions propounded, further testified as follows, to wit:

Mr. Hanger: Shall we proceed?

The Chair: Yes. Let us have order now, so we may proceed. Proceed, Mr. Hanger.

Direct Examination
Continued by Mr. Hanger.

Q. Governor, yesterday afternoon, when the adjournment was had, we were on Article No. 17. You were testifying about that in conjunction with article—the charges made in Article 16; I was fixing to ask you then, and will ask you now, why did you veto the University appropriation bill?

A. I vetoed the University bill mainly upon three grounds.

General Crane: Mr. President, I think the veto shows the grounds upon which it was based, it ought to be limited to those.

Mr. Hanger: We think that he is entitled to state his reasons.

General Crane: His reasons are stated in the veto.

Mr. Hanger: We insist—

General Crane: The law requires them to be stated.

Mr. Hanger: We insist that he has the right, inasmuch as it is charged here, specifically charged here, that he vetoed it for reasons other than those stated in the veto. We insist he has the right to state as well the reasons that are given there, and other reasons, if there were any, because of the nature and the language of the charge made against him.

The Chair: Is the allegation denied that he vetoed it for reasons other than those stated?

Mr. Hanger: Not in that express language, but—

Senator Bee (interrupting): Mr. President.

The Chair: The Senator from Bexar.

Senator Bee: It occurs to me that it would raise the same question as if this party had signed a contract and gave his reasons for signing the contract, he would not be limited to the language—to the language in the contract. I think a witness or party charged has a right to state in addition to the reasons given in the document, the reasons that actuated him in doing so; in other words, if I may suggest to the President, it goes rather to its weight than to its admissibility.

The Chair: I want to read the

article of the Constitution on it. (Referring to Constitution.) What seems to be the only provision of the Constitution covering the question is this (reading): "If he approves, he shall sign it; but if he disapproves it, he shall return it, with his objections, to the House in which it originated, which House shall enter the objections at large upon its journal, and proceed to reconsider it." And the provision of veto after adjournment is to the same effect.

Judge Martin: Mr. President, if you will pardon us—?

The Chair: Yes, sir.

Judge Martin: We understand that this veto is the basis of one of the charges. Now, the veto, of course, will speak for itself, but then his reasons and the reasons which actuated him in executing that veto go to the very gist of this matter, the thing that was operating on his mind.

The Chair: That is true, Judge; but the objection was that the reasons were stated in the veto, and that the constitutional—

Judge Martin: Well, it would go to his action; it may not have all been in there; the execution of that veto being the act complained of, we think he would certainly have a right to state in detail the motives that actuated him in preparing that particular document, it being charged that it was illegally executed by him in violation of the provision of the Constitution—and the motives that actuated him would certainly be the very gist of this transaction, and might not be stated in the veto at all.

The Chair: The Chair is of the opinion that the objection would go rather to the weight than to the admissibility of the evidence, and overrules the objection.

Q. Go ahead, Governor.

A. I vetoed the University appropriation bill mainly upon three grounds: The first was, that I thought the bill was excessive and extravagant, more than was necessary; and the second was that, while I was deliberating with the Board of Regents to consider the question of what should be left in the bill and what should be disapproved, in my own private office, that a mob waited on me and on the Board of Regents, and disturbed our deliberations, and I be-

lieved then, and I believe now, that mob was formed with the consent and knowledge and approval of the—of certain members of the faculty out there, and I thought it would be a very bad precedent to let the University have any money for their maintenance and support as long as the faculty approved and permitted the students to undertake to intimidate and coerce and browbeat the Governor of the State and the Board of Regents, who were entrusted by the Constitution with the management of that institution. In addition to that, I vetoed the bill because, as I considered then, a very unreasonable and unwarranted injunction had been issued, and it was apparent that an attempt was going to be made through injunction, and it had succeeded up to that time by the granting of a temporary injunction, to take from the Board of Regents the management and disposition of the money provided by the Legislature for the support of the University. I did not veto it because I was opposed to the University. As I have said in various messages, platform—platforms and platform speeches, that I was in favor of higher education, and I answer now as ready, and as willing and anxious to approve a permanent system, or permanent way for the support and maintenance of the University as I ever was—but that I thought that the University ought to be kept within proper bounds, and those in control of it be made to understand in no unmistakable way that they could get no bigger than the people in the last analysis for the existence of the University.

Q. Did you then, or do you—

Senator Bailey: Mr. President, will Governor Ferguson speak a little louder?

The Chair: Yes, speak a little louder.

Q. A little louder.

A. Thank you, I will try to.

Q. Did you then, and do you now oppose the existence or the working out of ways and means to furnish an adequate support for the University for it to be maintained as one of the first class?

A. I am perfectly in harmony with a—any plan or design to maintain a University of the first class, provided that it is done in a sensible way, and having in mind an

economical expenditure of the people's money; in other words, I am in favor of higher education, provided they do not get too high.

Q. You mean high in cost?

A. Yes, sir.

Q. Now, Governor, did you or not, yesterday afternoon testify with reference to that portion of Article 17, which says (reading): "The Governor has sought to remove members of the Board of Regents without such cause, has demanded the resignations of others without reason, simply and only because he could not dictate to them as to how they should cast their votes in reference to matters arising before them. Such conduct was a clear violation of the law, and would serve to make inoperative the provision of the Constitution providing for six-year terms of office." You spoke about Dr. Jones. Now, outside of—that, and omitting that, because it has been testified about by you, tell the Court with reference to any other members of the Board of Regents and the charge with reference to them?

A. There was no attempt to remove any other members of the Board of Regents. There were other members of the Board who did resign, but they did so of their own accord, and after discussing with me their views and I giving them mine, I think the record will show that no other member was asked to resign, and they were left free to do as they pleased. As has been stated here, Mr. Brents and Mr. Butler were appointed on the Board after they informed me that they were very friendly and wanted to perpetuate Dr. Vinson in office, and many times in discussing the matter with them. I make no denial of the fact that I was emphatic in my views about the matter, and in expressing my views to them, and I wanted to remove any doubt and not leave any ambiguity about my position, and I explained to them fully about what I thought about the methods and practices pursued out there, and plainly told them I thought they ought to be discontinued, and it would be a mistake to perpetuate those professors who were responsible for it, and went to the extent of naming them—but any further than that I have never sought to coerce any member of the Board of Regents to do this or that, or to not do this or that.

Q. The latter clause of Article 16 is, or says that you sought to set aside the—(reading): "He has thus sought to set aside the Constitution and law giving to the Board of Regents a discretion in matters of this kind, and assert instead of their legal judgment, his own autocratic will." Did you ever seek that, or have that in mind?

A. No, sir.

Q. In this situation or matter at all?

A. My relations with the Board of Regents and my negotiations with them have been just as I have explained, in that I told them in an emphatic way, I make no denial of that, that to the best of my ability I explained to them my position upon these different matters, and gave to them my opinion upon these different matters, and they agreed with me in some respects, and in other respects they disagreed with me.

Q. Did you know that Captain Stowe, the Superintendent of Buildings and Grounds was going to present a paper, or resignation to Mr. Brents, and ask him to sign it?

A. No, sir, I did not.

Mr. Hanger: Does any member of the Court, any Senator, have any questions now? These are all of the questions.

Senator Page: I would like to ask him a question.

Mr. Hanger: Yes, sir.

The Chair: The Senator from Bastrop asks the indulgence of the Court while he prepares the question. This is a question of Senator Page (reading): "Will you state what your intentions were as to the future of the University during your term of office—that is, after your veto? Did you intend for the school to remain closed, or did you intend to run the thing on deficiency warrants—or just what was your intention?"

A. Well, my intentions were, having as I thought in mind the fact that the University could be operated upon a very much less amount of money than the Legislature had appropriated, and as was shown by the previous administration, that it had been operated on very much less money; that after we had demonstrated to the faculty and the authorities out there that the Governor of this State and the Board of Regents, who are authorized by law to manage the University, that they could not be intimidated by them and

that they were going to have to submit to the ruling of the Board of Regents, and that they were not going to stand for any bluffing, and that, in other words, after we had restored the Board of Regents into full control of the University, and established their supremacy and authority to absolutely control that, independent of certain members of the faculty, then it was my intention to co-operate by granting deficiencies or otherwise to operate the University as it should be under the direction and control of the University.

Q. Let me follow that question by another—I think you have not answered the first part of the question probably as fully as the questioner would desire. The first part of the question is, Governor, whether or not the University was to stay closed. Did you have any desire to have the University remain closed at any time?

A. No. The University, even without the granting of deficiencies, would not necessarily have had to close. I call attention to the fact that they had over \$200,000 from their revenue, interest on their permanent University fund, leases on land. They had left in it fifty-odd thousand dollars for the School of Mines, they had \$7,000 there left for the payment of the salary of the dean, they had their matriculation or tuition fees, amounting to some thirty or forty thousand dollars.

Q. Was that a year?

A. A year. And their laboratory fees and their library fees, and other sources of income, would easily run the assets of the University up to \$300,000 a year; and up to the time I came in office I think that \$300,000, or \$350,000 under Governor Colquitt's administration, was about the amount of money that they had, all the money that they required to operate the University; so that they could have anticipated their revenues on their land for a year in advance, and it was quite apparent that if they had put the teachers to work out there instead of having one teacher to every probably twelve students, as Dr. Vinson says, if they had put them to teaching, like the early teachers of the University did, and decreased the salary list to that extent, that there would have been no necessity for the University to close at all, and it would have required not over a hundred and fifty or two hundred thousand dollars deficiencies for the University to have

operated on an economical and sufficient basis.

Q. Well, did you believe you had the legal right to issue deficiencies under those circumstances, under the Constitution and laws of this State?

A. Yes, sir, and I had that in mind when—that was clearly apparent from the—you know the Legislature each year has to appropriate the funds accruing from the permanent University fund, and that appropriation was for the maintenance and support of the University, and establishing thereby the purpose for which the money was appropriated, and upon that a deficiency I thought could easily be issued.

The Chair: I have a question here of Senator Hudspeth here in writing. (To Mr. Hanger): Do you care to ask him any more questions on that particular point, Mr. Hanger?

Mr. Hanger: What is that?

The Chair: Do you care—

Mr. Hanger: I would rather you would ask him the questions.

The Chair: Well, I have some questions.

Mr. Hanger: I was only trying to go a little further on that question.

The Chair: This is a question by Senator Hudspeth (reading): "Governor, did you have any understanding with C. E. Kelly of El Paso before or after his appointment as to how he would vote on the University?"

A. None whatever.

Senator McNealus: Mr. Chairman, I didn't understand that question; you did not read it quite loud enough.

The Chair: The question was, did you have any understanding with C. E. Kelly of El Paso, before or after his appointment as to how he would vote on the University? Another question by Senator Hudspeth (reading): "Governor, was it your intention at the time you vetoed the University appropriation, or a greater portion, to close the University temporarily or permanently and destroy that institution?"

A. No, sir, not in the least. My idea was to put the Board of Regents back in power and to tell the faculty out there that the Board of Regents were going to run it, and we were not going to be waited on

by any mob, or any injunction at all, that was the purpose of the veto; that was the only weapon that I had left.

The Chair: Any other questions on this particular article?

Q. (By Mr. Hanger, resuming): Governor, the income from the lands is continuous, isn't it—that is, it runs from year to year?

A. From year to year.

Q. And there is no way to stop that?

A. No, sir.

Q. No way to keep that from the University?

A. No, sir. My understanding—

Q. (Interrupting): And whatever that amounts to, is payable to the University, as the leases are paid by those who hold the land?

A. My understanding is that it has to be appropriated though, each year by the Legislature.

Q. Yes?

A. For that purpose, and it is done as a matter of form every Legislature, and was done in this instance.

Q. What was the amount, in round figures, of the appropriation approved during your first two years, for the University—the Main University out here?

A. Well, for all purposes including the Medical Department at Galveston, it was \$711,000 each year—

Q. I see.

A. —and I think for the Main University out here it was probably fifty thousand—well, I am not sure about that—fifty or seventy-five thousand less than that.

Q. Well, whatever that appropriation amounted to—

A. Yes, sir.

Q. —that much subtracted from the full appropriation?

A. Yes, sir.

Q. It has been said here somewhere, maybe by Dr. Vinson, that it was \$1,200,000 for the two years.

A. Well, perhaps that is approximately correct, for the Main University out here.

Q. Yes?

Mr. Hanger: Were there any other questions, Mr. President?

The Chair: There are no other questions on the table.

Q. Article 18 reads as follows: "The Governor of Texas has in public speech and published writing declared to the people of Texas that the

faculty of the University are grafters and corruptionists, that they are liars, and that they are disloyal to their government. These are most serious charges. He made them first before the Legislature convened in January, 1917. The members of the faculty, in justice to themselves, to the institution which they served, and to the people of Texas, whose money supports and maintains that institution, applied to the Senate of Texas for a full and fair investigation. They sought in every way possible that the people of Texas might know every fact and circumstance connected with the management of the University of Texas. James E. Ferguson opposed that investigation and on the urging of his friends in the Senate that the controversy was ended, and that the charges would not be repeated, there was adopted the Dayton resolution by the Senate of Texas, which was for the purpose of settling the controversy. After the Legislature had adjourned and when investigation was no longer possible by the representatives of the people, the Governor again repeated the charges, becoming more and more vehement. If he knew the charges to be true, it became his sworn duty to cause the parties involved to be prosecuted. If he did not know them to be true (and the Board of Regents after a fair hearing found that they were not true), he is guilty of criminal libel and slander against the fair name of Texas and one of its most cherished institutions." Governor, first please tell this Court about the charge here that you violated what is known as the Dayton resolution, adopted and passed by the Senate.

A. After the investigation out at the University which was referred to in the Dayton resolution, I, any further than to give my private opinion in discussing the matter with friends, I pursued the matter no further. When the Dayton resolution was passed the question was asked me about an investigation of the University. I never opposed any investigation of the University, but simply said in my opinion that the Board of Regents were the people constituted by law and had the authority to deal with matters at the University, and if there was anything that needed to be investigated that that was the proper tribunal to conduct

that investigation, because they had the power to right any wrong that existed and administer any remedy that might be required; and that was the extent to which I said that I didn't see any need for any investigation. The Dayton resolution was passed, and whilst I recognized that it was not legally binding upon me, yet, knowing of the efforts and the motives of Senator Dayton to compose that situation out there from time to time, and my friendly relations with him, I, in a manner, acquiesced in the Dayton resolution and thought that the matter would be adjusted and we would have no further trouble; and I respected the Dayton resolution until the mob appeared before my window down here and with students shaking their fists at me and making all sorts of faces at me, and calling to me in loud and disrespectful terms to read the banners, and with faculty members out in their automobiles just over from the student body, and with the statement from Dr. Vinson that he had dismissed the classes to enable the students to congregate for this purpose, I then saw that they had disregarded the Dayton resolution, they had opened up the whole thing again and the fight was on, and any disregard or statement by me about the faculty after the Dayton resolution, was caused solely by their utter disregard of the resolution itself in bringing the mob down to wait on the Governor and Board of Regents while they were peaceably and quietly discussing the best interests of the University of Texas, and after they threw the gauntlet down to me with that mob, why, I thought that I was released from any further proposition, and I saw that what I had originally thought was true—was more than doubly true, and that certain members of that faculty had conceived and determined in their own minds that they were going to bring all pressure and power which they could to coerce me and the Board of Regents to do their will and do their bidding, and then the war—from that time on the war was on.

Q. Governor, the first part of this article declares that you have assailed the faculty. The apparent meaning of the charge being the faculty as a whole. Did you ever do that?

A. That is not the fact at all. The controversy—when I said "the faculty" I always said I was discussing certain members of the faculty, as the record will disclose; the members of the faculty in question were these men, not exceeding, I think, five or six in number, and far from that being the truth there are many members of the faculty that are good friends of mine and for whom I have the highest respect and have confidence in them; and when I said "the faculty" it was always in connection with the statement of misdoings of certain members of the faculty who were generally known or the acts of which they were guilty were enumerated, and it did not in any way pertain to more than five or six members of the faculty.

Q. Now, you say that only embraced five or six. Do you understand that the faculty, or that the instructors, tutors, professors and assistants and adjunct professors constitute more than three hundred people out there?

A. Yes, sir?

Q. And that you did not mean to designate the vast majority of them, you now assert, do you?

A. No, as I stated, any statement which I may have made at any time about the faculty was in connection with other statements made with reference to the five or six of them or the acts of which I complained.

Q. There is one question we didn't ask—in the bill that was passed by the Legislature at the Regular Session or the First Called Session, and vetoed by you, what about the funds from the lands of the University—was that left in the bill?

A. Yes, sir, that was left in the bill.

Q. That was not vetoed by you?

A. No, sir.

Q. Although appropriated by, the Legislature?

A. Yes, sir, left in there so that there might be a basis for deficiencies.

Q. Yes, yes. Was there any other statement with reference to Article 18 and the charges there made, Governor, that you desire to make?

A. I don't recall any at this time.

Mr. Hanger: Has any member of the Court a question?

General Crane: Here are two questions from Senator Collins.

Mr. Hanger: Better send them up to the Chair.

Senator Gibson: One minute, Mr. President.

The Chair: I have some questions here which some of the Senators have sent up, and some more are being prepared. I will read this question, Governor, by Senator Caldwell (reading):

"Your answer to charge 18 alleges—'That a certain member of the faculty drawing a large annual salary from the State, and under contract to give to the State his entire time and talent was engaged in charging people at other points in the State for services rendered which constituted a part of his duties as a professor of the University of Texas and as a member of the faculty of same.' Please explain this matter fully."

Senator Bee: Mr. President, who was that question by?

The Chair: Senator Caldwell.

Senator Hudspeth: Let's hear that again, Mr. President.

The Chair: At the request of certain of the Senators I will read the question again. The reporters need not incorporate it again if they got it the first time. (Thereupon the Chair re-read the question above set out, propounded by Senator Caldwell).

A. The member of the faculty, in my mind, that was really referred to there and in my answer was Dr. Caswell A. Ellis.

Q. A. Caswell Ellis?

A. How is that?

Q. A. Caswell Ellis.

A. A. Caswell, is it?

Q. Yes, you said Caswell A.

A. Well, whatever the facts may be about that. Dr. Ellis, as was explained by Dr. Vinson, was in charge of the Extension Department, and as explained by him, and generally understood, the idea of the Extension Department was to carry modern thought and ideas learned at the University to people in all the different avocations in which the people were engaged; the idea was to carry to the people and to give them the benefit of scientific ideas and principles which had been learned and were being taught at

the University, to such communities and to such localities as were not in a position to obtain University facilities and especially University ideas along those different lines. Notwithstanding that Dr. Ellis was paid for that purpose—to teach modern ideas and thoughts in different localities which could not secure those ideas, he was engaged in going around to different communities—

General Crane: Now, Mr. President, I want to ask that this witness be confined to facts within his personal knowledge and not to rumors that he may have heard. We are willing to meet the facts, but not rumors that he may have heard of those facts. Just let—

The Chair: The witness will be required to confine it—

General Crane: And moreover, Mr. President, as I know some things, I want the evidence of those facts to be legal evidence and not letters or suggestions of somebody else.

Mr. Hanger: Well, we will just submit to the gentlemen the letters of Dr. A. Caswell Ellis as a part of this witness's testimony on the subject mentioned.

Judge Martin: They were identified by Dr. Vinson while he was on the stand.

Mr. Hanger: We proved the signatures by Dr. Vinson, and we will just submit the letters without any further comment from the General, the Court or anybody else.

The Chair: All right, proceed with the further answering of the question.

A. Notwithstanding that he was drawing a salary of \$3,250 a year and in charge of the Extension Department, I learned that he was out charging people for the services of modern thought and ideas learned at the University. For instance, over at San Antonio, a certified copy of the vouchers paid him—

General Crane: Now, surely, I object to that certified copy.

The Witness: Then I can't answer Senator Caldwell's question—

General Crane: Very well, I can't help that, if you can't answer it. But if there is any statement by anybody from San Antonio I would like to have the gentleman from San Antonio here, because manifestly that would be the best evidence, and then he can explain what services were rendered and all

the circumstances connected with it but a mere statement of the bill does not give the Court any view into that at all.

Mr. Hanger: He has been asked to explain his answer and what his information was as to how he understood the question.

Senator Caldwell: Mr. President.

The Chair: Senator Caldwell.

Senator Caldwell: I do not care to interfere with counsel in the case, but it is alleged in this answer of the Respondent—I thought this was the practice referred to by the quotation from the answer wherein the Respondent alleges that these matters were brought to him and he laid them before the Board of Regents personally. I think if reports of that kind came to the Governor of Texas that it was his duty to lay those practices and those reports before the Board of Regents for investigation, but as far as I know—and the next question I have directed to the witness is to please state when he learned those matters, and to state when and where he laid them before the Board of Regents, and why he did not lay them before the Board of Regents at their October meeting, 1916.

Mr. Hanger: I don't think the answer, if the Chair will pardon me,—I don't think the answer says that this particular matter was laid before the Board of Regents; I don't think it says that, but I may be mistaken.

Senator Caldwell: Well, there is another allegation as to another practice, and then the answer says that this Respondent believed then and now believes that it was his duty to call these matters to the attention of the Board of Regents of the University of Texas.

Mr. Hanger: What is meant—

Senator Caldwell: Whether it refers to those three practices outlined in the answer, of course, I don't know; I did not write the answer, but that is the way it reads to me; he outlines three practices of which he complained to the Board of Regents; and I would like to have in this record when those three practices were reported to the Board of Regents, and if they were not, why not.

The Chair: That question comes later, Senator. The question now is whether it is admissible or permissible for the witness to state the evidence he was about to state.

General Crane: I fear, Mr. Presi-

dent, I did not make myself understood. I have no objection to their going into any matter that is relevant, by proper testimony, but what I do object to is this witness or any other witness telling and exhibiting statements that he may have received from San Antonio or any other place as evidence of the facts therein stated, because there is better evidence of those matters, and then when those witnesses come here with those facts we can cross-examine them and the Court can understand the entire surroundings, and they will only get a very partial glimpse this way.

The Chair: The opinion of the Presiding Office is that the witness should confine himself to what would be legal testimony—that is, the witness and all parties. This is one of the allegations in the answer; that allegation should be sustained by competent testimony, not by hearsay testimony.

Mr. Hanger: All that we expect this witness to testify to or that he could testify to would be the information that came to him upon which he acted, and that, we submit, is admissible.

General Crane: Well, he has stated that he had information to that effect, and I am willing to let that part go. Now, if they want to show what that information was then the witnesses ought to—if they offer it as facts, existing facts, the witnesses ought to be produced.

Mr. Hanger: Let me ask him a few questions. I think I can get that properly before the Court.

The Chair: Yes, sir, all right.

Q. Governor, at the meeting in October, 1916, were these matters laid before the Board at that time?

A. No, sir.

Q. When was it that you got information, as you now recall and remember it, about Dr. A. Caswell Ellis doing some work for pay and profit outside of his work connected with the University?

A. I don't recall just when it was, but it was sometime, I think, in a month or so after the October meeting, or probably it might have been two or three months—I am not certain about that; the matter was beginning to be discussed quite freely around and I began to get information from—

Q. Now, was that matter called to the attention of any of the Regents by you after that?

A. I don't recall whether it was—yes, I think it was, I think I talked to—

The Chair: I have a question from Senator Caldwell.

Mr. Harris: Mr. who—what is the Regent's name, I would like to get that?

The Witness: I don't remember now just exactly which one it was.

The Chair (Reading): "When and where did you ever call the attention of the Board of Regents to this practice by Dr. Ellis and why did you not lay this matter before the Board at the October meeting in 1916?"

Mr. Hanger: Well, that probably—

The Witness: That is answered by the fact that I did not know it at that time.

The Chair: That is as to the first part—that is, when and where did you first—

Mr. Hanger: I think he answered that by saying he talked to some Regent, but does not remember when or who it was. That was the substance of the answer, I believe, Governor.

The Witness: Yes, sir.

The Chair: Well, any other questions, Mr. Hanger, on that point? I have several other written questions.

Senator Caldwell: I would like to ask a question on that point.

Mr. Hanger: Yes, sir.

Q. Governor, with reference to the charge here—the specification in the article here that you disrespected and disregarded the Dayton resolution,—did you understand that this particular matter about Dr. Ellis was a matter that had not been considered at the October meeting of the Board of Regents?

A. Yes, sir, it was not considered—it was not discussed, and was not part of the information which I laid before the Board of Regents.

Q. Yes, that is what I mean.

Mr. Hanger: There are some other questions but not right in this connection, and I would like for the Chair to read the questions now on the Chair's desk.

The Chair: Well, there are several questions here, I will read them. This question in immediate connection with what was just—with the line of inquiry just pursued—by Caldwell (reading): "Your answer to Charge Eighteen also alleges, 'That a certain other member of the

faculty was, as this Respondent is informed, engaged in the sale of books which the students were required to buy at exorbitant prices. Please explain this fully?"

The Witness: Well, my reference there was to the various professors at the University who were writing books which the students were required to buy. I had been informed that books costing seventy-five cents or a dollar to print were sold to the students, and they were required to buy them at three and four dollars a copy.

The Chair: This question by Senator Page (reading): "I have heard of a letter which you were said to have been reading to the Regents when the student parade took place. Please state the contents of the letter or its substance?"

Mr. Harris: We would suggest, your Honor, that the letter be produced and read. It would be a more accurate statement.

Senator Page: Yes, sir, that would be better. I didn't know whether you had it or not.

Mr. Harris: That is the letter which was read in the House investigation and is in the record.

Senator Page: Yes, sir.

Senator Caldwell: Mr. President, here is a question I would like to have asked in connection with the question about the books.

The Chair: Let the letter be read first.

Senator Page: Yes, let the letter be read; I haven't heard it.

Q. Now, is that the letter Mr. Brents stated the reading was interrupted and he never heard the balance until he got to Galveston and he heard it read there?

A. Yes, sir, that letter was incorporated in the veto message.

Senator Bee: I will say to the Governor the Clerk might read it.

A. That's all right, I will read it.

The Chair: I suppose he was prepared to read it.

A. It refers to my request, that the Board of Regents meet with me in my office.

"On May 28th, the following members of the Board of Regents appeared in my office, to wit: Wilbur P. Allen, George W. Littlefield, J. W. Butler, George S. McReynolds, W. R. Brents, and A. W. Fly. After we were closeted in private conference in my office I informed the Board that I desired to transmit to

them a communication, and I read to them the following:

"May 28th, 1917. To the Board of Regents, State University:

"Gentlemen: I desire to call your attention to the following:

"1. The Legislature just adjourned has appropriated in round numbers a million, six hundred and forty thousand dollars for the support of the State University for the next two years.

"The institution now has considerably less than three thousand students, or in other words, the State is called on to pay approximately \$545 per student for University facilities for those who are able to attend said institution for the next two years. In all probability the State will not set aside for those attending common schools of the country more than \$15 for the next two years. Before we commit ourselves to the expenditure of the vast sum of money for the benefit of such a comparative few of our people, we ought to satisfy ourselves that the money is being wisely spent. And this brings us to the question of what is the University doing and what is it seeking to do.

"2. In my opinion the University has not a proper president, he has neither that experience as a teacher, nor sufficient educational attainment that would qualify him to fill this important place. His management of an institution previous to his promotion to the Presidency of the State University was a failure, and his record there by no means recommended him to be employed at \$6000 a year by the people of Texas. He is also a sectarian preacher, and not only makes no denial of such fact, but since his elevation to the Presidency of the institution has regularly and often continued to preach under the auspices of his particular religious denomination. Article 2645 reads as follows:

"'No religious qualification shall be required for admission to any office or privilege in the University, nor shall any course of instruction of a sectarian character be taught therein.'

"This, in my opinion, disqualifies your president from continuing longer as President of the University. The University was created for the benefit of all the people of our State, and by all means no man

should be President of the State University who has aligned himself as the leader of any religious sect or denomination. Our Constitution, Section 6, provides:

"All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences. No man shall be compelled to attend, erect or support any place of worship, or to maintain any ministry against his consent. No human authority ought, in any case, whatever, to control or interfere with the rights of conscience in matters of religion, and no preference shall ever be given by law to any religious society, or mode of worship. But it shall be the duty of the Legislature to pass such laws as may be necessary to protect equally every religious denomination, in the peaceable enjoyment of its own mode of public worship."

"Section 7 further provides:

"No money shall be appropriated or drawn from the Treasury for the benefit of any sect or religious society, theological or religious seminary, nor shall property belonging to the State be appropriated for any such purpose."

"I have no objection to your president being a minister of his sectarian denomination, but I do deny the right of the University to pay the State's money to any minister, as long as he continues to preach. Aside from all this, the placing of a sectarian minister at the head of the State University will of necessity be distinctly offensive to other religious denominations."

"3. The University had permitted the growth of an institution, which, though it may have been innocent in its original intention, now threaten the life of the University itself. I refer to the fraternal societies permitted at the State University. These institutions have caused a well-defined line between wealth and poverty to be established at the University of Texas, and have established a line of social class. These institutions are composed almost altogether of young men of well-to-do and in most cases wealthy means. They call themselves fraternity brothers, and all the other young men of the school not so fortunately situated they call barbarians. The fraternity brothers live in stately mansions adjoining the University

grounds, where they enjoy and live in all the comforts and luxuries which money can buy. Their more unfortunate brothers live in crowded boarding houses and eat at what they call the cafeteria, but which is in reality a soup house, furnishing 11c and 12c meals. I do not say that there may not be some good in these institutions, but the University ought not to be an institution of mass and class. It should not advertise any young man's wealth, nor ridicule any young man's poverty. If the University cannot be maintained as a democratic university, then we ought not to have a University. It is a well-known fact that young men who are called barbarians are not entitled to the same social recognition as their fraternity brothers, who are able, and who do make glaring displays of their wealth, at the State University."

"4. It is a fact well known that gross irregularities continue at the University and the illegal misappropriation of the public funds by certain members of the University faculty is no longer a private secret. Within the last four years more than twenty-four teachers have been permitted to absent themselves from the State from four to nine months in the year and draw from one-half to their full salaries from the State of Texas. In addition to this, it is well known that there are many professors at the State University drawing around \$3,000 a year who are not working fifteen hours a week. A great part of the work is done by instructors of little or no educational attainments, and the dignity of the institution is thereby greatly impaired."

"5. It is a fact well known that the University is attempting to do a class of work which can be done by other institutions of the State at much less expense, and which ought to be done by other institutions."

"6. It is a fact well known that members of the faculty, both of the main and medical branches, have organized themselves into small cliques and clans and are seeking to control the University, regardless of the power of the Board of Regents, and in open defiance of the other duly constituted authorities of the State."

"7. There are many other unsatisfactory conditions at the State Uni-

versity and it is quite apparent that it has become an institution of fads and fancies, grossly mismanaged, which is directly responsible for the enormous and extravagant appropriations which the people are called upon to make for its support. In my opinion, if the University is to be maintained as a democratic institution, identified with and close to the masses who support it, it should have new blood in its faculty, and a competent man at its head. I have, therefore, called you, gentlemen, to especially consider these matters; believing that after you have carefully considered all of the facts you will agree that there is much foundation for this recommendation."

Mr. Harris: Were there any charges made in the letter, the original as written, before it was printed in this pamphlet?

A. Not that I recall, my instruction was to have it printed.

The Chair: I will read some questions I have here from Senators, this question by Senator Caldwell; leading back to matters inquired about in former questions propounded to him: "When did you learn of this practice, and when did you lay this matter before the Board?"

Senator Caldwell: That applies to the sale by professors of books at exorbitant prices. When did you learn of this practice and when did you lay this matter before the Board?

A. What practice is referred to?

The Chair: The sale of books.

Senator Caldwell: This is an excerpt of the answer: "That a certain other member of the faculty was engaged in the sale of books which the students were required to buy at exorbitant prices."

The Chair: Now, the question is, when did you learn of the practice and when did you lay the matter before the Board?

A. I think perhaps the matter was referred to, we referred to this information at the time we had the examination out there at the University. That practice was with reference to what I had understood about the methods of the Co-operative Society out there which had in hand the sale of the books, under the direction of Dr. Mather, as I understood it, and they had accum-

ulated a large surplus of \$25,000 or \$30,000 as profit on these books.

The Chair: A question by Senator Collins:

"If, as you seemed to contend yesterday, the Legislature could not appropriate money for the current expenses of the University, how did you think the deficiencies which you proposed to create for the maintenance of the University would ever be met?"

A. Well, as I said yesterday, I didn't know just how plain the Constitution was upon how the University should be supported until they began to charge me with striking down the Constitution and that matter had not entered my mind in connection with the prohibition of the Constitution of using money for current expenses.

The Chair: A second question by Senator Collins: "If you say the Legislature had appropriated the income from the University permanent fund before the same was available, then don't you know that your deficiencies to run the institutions this year, would have left the University wholly without funds for the next year?"

A. It may be now, as we read the Constitution, and it has express inhibition against using the money in that certain way, so that there might be some doubt about authority to issue deficiencies, but at the time I vetoed the bill I didn't have that in mind, and it is only, as I stated recently, since the question has been raised here about my striking down the Constitution, that that difficult question arises.

The Chair: This question by Senator Alderdice: "Governor, if you could have had your way as to the dismissal of certain members of the faculty who were not your friends, would you have approved the University appropriation, notwithstanding the fact you considered it greatly in excess of the needs of that institution?"

A. No, sir, as I stated, in the veto message, in any event there was a great amount of it that would have to come out in any event.

The Chair: This is by Senator Bee: "Is it true that the practice referred to was stopped by Dr. Vinson when he took charge?"

Senator Bee: Mr. President, at the time I sent up the question, we were

on a certain line of inquiry, and I don't recall right this minute—about Dr. Ellis, I will state, so the Governor will understand. I wrote that question when they were discussing Dr. Ellis' employment outside.

The Chair: The question is: "Is it true the practice referred to was stopped by Dr. Vinson when he took charge?"

A. I understood that Dr. Vinson agreed that certain practices were improper, and that he had discontinued some of them, but the whole matter had not been fully gone into, and I never understood the Dr. Ellis matter had been discontinued.

The Chair: This question by Senator Caldwell: "Is it not a fact that the books sold by Mather through the co-operative society, and which matter you laid before the Board of Regents, were sold for one dollar and under your statement to the Board at a profit of twenty-five cents?"

A. I don't recall having known what price they sold the books at. My information was that they sold the books, and that as a result of the sale of those books, they had accumulated a surplus of \$35,000 or \$30,000 from profit on the books.

The Chair: Any further questions from members of the Court?

Senator Bee: I have one.

The Chair: Here is a question by Senator Caldwell which I will read: "Why was the appropriation for the medical branch vetoed?"

A. At Galveston?

The Chair: Yes.

A member: A little louder.

A. As I understood it, that coterie of the faculty, certain Galveston professors, who were co-operating with certain professors here in this school, to perpetuate themselves in the Galveston school as well as these gentlemen to perpetuate themselves in the University at Austin.

The Chair: Senator Caldwell sends up the following question which I will read: "From whom did you receive this information?"

A. I received it from various sources, mainly from Dr. Fly, and some from, as I recall it, from Dr. Lee at the time that he came to talk to me and urge the appointment of Dr. Lawrence, and probably from some others I don't now especially recall.

The Chair: Senator Bee sends up the following question. I will read the

question, Governor, and you may answer it.

A. All right.

The Chair: (Reading) "What is your understanding of deficiency warrants? Are they intended to meet emergencies not anticipated, or are they to meet permanent conditions?"

A. My understanding of the law of deficiency, is, to say frankly, it is nothing only just an appropriation has been made by the Legislature and it subsequently develops that amount is not sufficient, then you may grant a deficiency to supply the necessary amount to carry out the original purpose intended by the Legislature.

The Chair: Any further questions, gentlemen?

Senator Hudspeth: Just a minute.

The Chair: Senator Hudspeth asks this question: "Governor, did you state in a public speech that the entire faculty of the University were liars and petty thieves, or did you state that certain members of said University were thieves and liars, and did you state in a public utterance that they were disloyal to their government, and if so, to what government did you refer, National or State?"

A. I did state that certain members of the faculty were liars and grafters, but that only, as I stated before, only referred to five or six members under consideration, and I never made any reference to the faculty as a whole. I did state that they were disloyal to their State government. Never did I make a statement that they were disloyal to their National government. Their relation to their National government was never discussed by me, and I can state the reason why I thought they were disloyal to their government.

Senator Hudspeth: I would like to have that, he says he wants to state the reasons.

The Chair: He said he could do it if you wanted him to.

Senator Hudspeth: I would like to have that.

A. There is out at the University a publication known as the Daily Texan, and Doctor Vinson stated over in the House—and I don't think it will be denied, that it is published with the authority and consent and approval of the faculty of the University of Texas.

Mr. Harris: Its a students' publication, isn't it, Governor, run by the students?

A. It is so stated, but my information is, from Doctor Vinson's testimony himself, that it is done by the consent and approval of the faculty, that they approve the publication of that paper.

General Crane: Mr. President, I wish to object to incumbering this Court record with an editorial in a student publication unless it can first be shown that members of the faculty he is now assailing authorized its publication, or wrote it. It does not prove anything except the utterances of the people who wrote that paper. Now, for instance, I approved the establishment of Journals in my home town and several of the representatives are here, too, but I don't think anybody would hold me responsible for utterances in those journals when I cannot control either one of them. Unless it can be shown they inspired that or wrote it, I shall object to it.

Mr. Hanger: This was in response to Senator Hudspeth's question and request to state the reasons why he said there was disloyalty, and his reasons for making that statement.

Senator Hudspeth: I will state that I think the Court ought to have all of the facts connected with this matter, and I think we are entitled to know why. General Crane may be correct, but so far as I am concerned I do not propose for this case to go off on a technical proposition. I would like to have all of the facts we can get.

General Crane: Mr. President, I am making no technical objection. I want them to have all of the facts. The point I am making is, the professors ought not to be held responsible in anybody's mind for a statement that they did not inspire and possibly did not know it was made. The students are here, possibly, who edited that at the time, and if any of the professors are here they can be brought. I am only objecting to hearsay statements as to what the professors did. That says nothing about the professors, it is simply a statement in the paper.

A. (Continuing): If I may be permitted to state here, when I made that statement about the disloyalty of the faculty, I believed then and I believe now, and I never have changed my mind for one minute, that this student publication was not only approved, as Doctor Vinson

says, by the faculty, but I believed then and I believe now that they inspired it, and I have been informed of it, I was informed at the time I made that statement that a member of the faculty wrote this very article that I am going to read to you.

Mr. Harris: He ought to bring the professor of the faculty here.

The Chair: The presiding officer is of the opinion that it is relevant to be considered for what it is worth, on the strength of the charge made.

Mr. Hanger: Go ahead.

A. As I was about to say, the Daily Texan, published at the University, on the inside page it says, it is the Daily Texan, the Student Daily Publication of the University of Texas. On February 8, 1916, on the front page of the Daily Texan appeared this article:

"General Pender Candidate."

"General P. Pender, the veteran dean of the Austin negro express force, is being congratulated by his friends today as the result of the report that he was the recipient of several votes for Governor from the Fourth Ward in Austin. Several citizens of the University community took the trouble to scratch out the name of the gubernatorial candidate and write in that of the negro trusty."

Mr. Hanger: You said February, you mean November, don't you?

A. November, the day after the general election. When I made the statement that I thought they were disloyal to the government I had read this article, and I say now, as my belief prompted me then, that any publication permitted at any institution, under the supervision of the faculty, which states that they would rather have a "nigger" for Governor of the State rather than the one which the white democrats of the State have put in office, is the most disloyal organization to that extent that could exist. The democratic party is responsible for the State University. If it had not been for democratic legislators they would never have gotten the appropriation that they did get. What is applied to me, that is nothing, that doesn't worry me at all, but when it got to the place that the official communication of the University of Texas would publish that the people at the University community was scratching out the democratic candidate and

putting in a negro in place of him, then I thought disloyalty to the State Government had reached a very reprehensible degree indeed. In addition to that, and further showing to what extent the University influence was getting above the people; previous to that time appeared in the same Daily Texan an editorial with reference to Doctor Battle?

Senator Hudspeth: Doctor who?

A. Doctor Battle, with reference to his removal—I will not read all of the editorial, but it can be read if it is desired.

Mr. Hanger: What is the date?

A. It is 1915, I think, it is September 28th, I think, the "er" is not there, I think it was September, but I am not sure about it. It is cut off—what month it was.

"Dr. Battle can only be highly commended for doing what he thought best under the circumstances. Reproach is not for him, but for the State which has permitted conditions to exist which make advisable such action. The fact that the influence of Governor Ferguson in stepping beyond his powers as Governor, has prevented the untrammelled and free action of the Board of Regents appointed to direct the affairs of the University, is cause for the people of the State by one voice to deplore the existing state of affairs, and to demand that the University be permitted to proceed as the wise framers of the Constitution intended that it should, uninfluenced by State officials. Of course, Governor Ferguson has the right to express his opinion, but he has no right to go so far as to hamper the Regents in their actions and to tacitly or otherwise threaten disadvantages to the institution if a man he opposes is elected president.

"Too long has the University of Texas been compelled to patronize Governors and Legislatures that it might do its mighty work for the good of the State and of humanity.

"It is not contended here that Doctor Battle should have been elected president, it is merely contended that the Board of Regents should have determined that, and that the University should be permitted to work out its destiny according to the plans laid down for it. If the plans are wrong, they should be changed by the legal procedure. They should not be overridden by the Governor

regardless of the sincerity of his belief that he is acting for the best interests of the State and of the University."

Now with the provision of the statutes giving the Governor of the State the right to require the heads of those institutions to submit under oath everything about their institutions and to learn the whole thing, and in view of that fact that the Legislature—the Legislature which had convened under my first administration, had given them the biggest appropriation in the history of the University, they get up and say that the time has come in Texas when they are not going to patronize the Governor of the State, they are not going to patronize the Legislature any further.

General Crane: Let's see the rest of that.

(Witness hands counsel the paper.)

A. (Continuing.) Now, to show you the extent that they went over there, the disregard of being grateful to the Legislature of the State for this appropriation—

General Crane: In this connection we want to read the rest of this part of the statement, we propose to show just what it is. (Reading) "The Governor and the University—

The Witness: Wait until I get through with this, will you?

General Crane: No, I wanted to get the whole statement in now.

Mr. Hanger: It probably better be read now, because it is not the same information as the other.

General Crane (reading): "Dr. Battle's motives in asking the Regents not to consider him for the permanent presidency are most praiseworthy. By this act he has shown his sincere loyalty to the institution, and his willingness to cast aside personal aspirations when he believes the achievement of such would be a detriment to the institution to which he has shown himself so much devoted. It is innate within a man to aspire to positions of trust. Dr. Battle naturally is possessed of such innate ambition. The fact that he has progressed by successive stages from an instructorship, through a professorship, through the offices of Dean of the Academic Department, and Dean of the Faculty to the Acting Presidency, indicates that aspiration to be a leader in the

educational world has, together with and prompted by his sincere desire to serve his fellowman, been a considerable factor in his rise as a University official. And now, within one step of the final attainment of that which he has, whether explicitly or not, striven for, he patriotically denies himself his chance. The magnitude of his patriotism in the act is thus apparent. Dr. Battle has performed what, from his standpoint as an individual cannot but be regarded as an act of rigid self-denial and remarkable loyalty to the school to which he has for so many years been attached, to the State of which he has long been a citizen, and to humanity for which he has the deepest love and the most altruistic regard.

"Dr. Battle can only be highly commended for doing what he thought best under the circumstances. Reproach is not for him, but for the State which has permitted conditions to exist which make advisable such action. The fact that the influence of Governor Ferguson, in stepping beyond his powers as Governor, has prevented the untrammelled and free action of the Board of Regents appointed to direct the affairs of the University, is cause for the people of the State by one voice to deplore the existing state of affairs and to demand that the University be permitted to proceed as the wise framers of the Constitution intended that it should, uninfluenced by State officials. Of course, Governor Ferguson has the right to express his opinion, but he has no right to go so far as to hamper the Regents in their action and to tacitly or otherwise, threaten disadvantages to the institution if a man he opposes is elected president.

"Too long has the University of Texas been compelled to patronize Governors and Legislatures that it might do its mighty work for the good of the State and of humanity.

"It is not contended here that Dr. Battle should have been elected President. It is merely contended that the Board of Regents should have determined that, and that the University should be permitted to work out its destiny according to the plans laid down for it. If the plans are wrong, they should be changed by the proper and legal procedure. They should not be overridden by the

Governor, regardless of the sincerity of his belief that he is acting for the best interests of the State and of the University.

"The State by failing in its duty to itself to the extent that it has not, by a mill tax or other sufficient provision, provided permanent support for its University, has handicapped the University already too much. Now, by reason of this handicap a State official has in his right of veto the power to prevent this institution from working out its destiny according to the plans laid down for it. The former handicap is too great. The last, growing out of the first, should not be added. The State should see to it that its failure in its duty to itself is not augmented by reason of this failure itself.

"We think the Governor is taking advantage of a disadvantage of the University."

The Chair: Governor, before you go further I think I have a few questions bearing on the point in question. This is a question by Senator Bee: "Is that the only incident with reference to disloyalty? If not, to what other incidents do you refer?"

Senator Bee: Mr. President, that was read in connection with the article about the negro porter?

The Chair: Yes.

A. The same Daily Texan, of date Austin, Texas, Sunday, June 3, 1917, on its front page is the following editorial, headed "Editorial."

"The Texan is confident that nothing but a highly dignified protest should be forthcoming from the student body on account of the latest contemptuous act of the Governor. His stand, as shown by the veto proclamation is weak and faltering and it will not be long until unbearable deluge of criticism will fall upon him. It is not advisable to give Mr. Ferguson's cohorts a single talking point, but on the other hand, it is student duty to show their horror in a way that will not include violent acts.

"Statements showing student sentiment have been issued, and the people of Texas will not labor under the delusion that we have suddenly gone to sleep. Each student must write home today and explain the exact situation.

"The Governor is being backed into a corner, and although we are

not at liberty to state the various processes of attack which are being formulated, the Texan can assure its readers that no stone, legal or otherwise, is being left unturned."

On the same front page in the right hand lower corner of the page, I read, discussing the veto of the appropriation by Governor Ferguson, it winds up with this language:

"It is probable that impeachment proceedings will be started against the Governor in a short while, as there has been much talk of this already."

Up to that time I had not read or had not seen anyone else that had read about impeachment proceedings being talked about. I saw the press did not carry it, other papers interested in the State did not carry it. The language shows that suddenly the Texan had known that plans were already formulated to impeach the Governor simply because he had exercised his constitutional right, admitted in the charges filed against me, to veto an appropriation made for the University.

The Chair: This further question we have, Governor, by Senator Bee: "Relating to the first editorial from the Texan, is it true that Dr. Vinson compelled an apology for the article, and that the apology was published in the Texan following?"

Senator Bee: That, Mr. President, refers to the negro article.

A. I don't know about that, I heard some discussion about an apology, but I never saw any frank apology. I never saw in the Texan where they have said that they were sorry that they had said that they wanted a negro Governor instead of a democratic Governor.

Mr. Harris: There is no such statement made in that letter, your Honor, please. It simply said some members of the Fourth Ward had voted for a negro.

A. I am telling you what I didn't see in the published paper, I have never seen from the members of the faculty and I have talked to the members of the Board of Regents about this very proposition, and to use the expression of Dave Harrell, he said it was a damned outrage that they published such a thing as that.

General Crane: Now, Mr. President, I think this witness ought not to be permitted to quote hearsay statements.

A. He is a member of the Board of Regents.

General Crane: I don't care who he is.

The Chair: The witness will confine himself to the point involved.

A. All right, sir.

The Chair: Are you through with that, Governor? If you are, I have some other questions.

A. In addition to that, and one—in a general way, as soon as I began to say and go out to the University and undertook to talk to them about the proposition a sentiment began to be raised against me here in Austin such as no man could mistake it, and as I thought when I made the statement about their disloyalty, they were rebelling against the right of the Governor of the State, elected by the people—not against me personally, but against the Governor of the great State of Texas—to inquire into their institution and to have anything to say about it or to know anything about it, and based upon that general sentiment that seemed to be quite prevalent out in the University community, here in Austin and in those articles expressive of that sentiment, I thought I was warranted in making the sentiment—making the statement about the disloyalty of the University management and faculty against the State government.

The Chair: I have two questions by Senator Robbins: First: "In the Fourth Ward, where your name was scratched and a negro's name written in, were only students allowed to vote in this ward or were citizens of Austin as well as students allowed to vote at this voting precinct?"

A. I understood that all who were qualified voters, as the article says, were permitted to vote. but what I was complaining of on account of the Daily Texan, the student publication, the child of the State University, would permit its columns to be open to a statement from anybody that they desired a nigger Governor in preference to a democratic Governor.

The Chair: The second question: "Were negroes not allowed to vote at this precinct?"

A. At the general election, I understood they were: I only understand that from the general law providing in reference to the matter.

The Chair: This is by Senator Bee: "When you spoke of disloyalty did you refer to the National government or to the State government, either or both?"

A. To the State government.

The Chair: This is by Senator Gibson: "Governor, you stated that the main reason why you vetoed the University appropriation was, it was excessive and the cost per student very excessive. Why, then, did you fail to veto the appropriation for the A. and M. College, a branch of the University, and the appropriation for the School of Mines? Is it not true that the cost per student in each of these institutions is far in excess of the cost per student in the University?"

A. I am glad that question was asked. In the first place, the A. and M. College is doing quite a different class of work from what the University is doing. In my opinion—I may be mistaken about it—it is doing a class of work that is far more beneficial and of far greater material value to the people of Texas than the University is. This may be from my viewpoint, but I think, for instance, the experiments developed by the Bureau of Animal Husbandry over at the A. and M. College and the work of Dr. Francis there with reference to the treatment of tick fever is worth to the people of Texas a hundred times as much as the Legislature ever appropriated for the University—for the A. and M. College alone. I am frank to say that I think there are certain amounts of the A. and M. appropriation that could be dispensed with. I think there are certain amounts—certain work that they are not getting full value for over there, but as long as an institution and its management shows that it is faithful to the people who want to appropriate their money and pay their taxes to support it I am in favor of resolving the doubt in favor of education, but if the A. and M. College was to send a student mob over to wait on the Governor of this State and they were to get one of their ex-students on the bench to grant an injunction tying up the Board of Managers of the A. and M. College from handling that institution, I think I would have vetoed their appropriation just like I did the University appropriation.

Senator Caldwell: Mr. President, I don't think the witness answered

the question about the School of Mines.

The Chair: The School of Mines—you are asked why you approved that in this question?

A. Well, I understood the School of Mines was just starting; that the people in charge of it were loyal, not connected with the faculty here, the members of the faculty here who were causing all the trouble here, and that the amount was reasonable and could be reasonably expended and profitably expended.

The Chair: Any further questions, gentlemen? Proceed, Mr. Hanger.

Mr. Hanger: In further substantiation of the statement made, or rather carrying out the proffer made by the witness, we offer these letters and contracts. There is one of them not signed; I want to find that. These are all signed and identified. There is one here somewhere that is not.

General Crane: This carbon is not offered?

Mr. Hanger: No, I don't think it is admissible. I don't think there is any necessity of reading them—just let the stenographers copy them.

The letters and contracts above referred to read as follows:

The University of Texas.
Austin.

April 3, 1911.

Mr. E. L. Wells, Jr.,
President School Board,
Marshall, Texas.

My Dear Mr. Wells:

I enclosed the detail for the cooking laboratory in my letter to you Friday night.

I have carefully re-read the specifications and gone over the plans for your building again. The final plans and specifications were never seen by me until after the contract was let. I went over the whole matter carefully in Fort Worth with Mr. Field and the other men in Waller's office and thought I had gotten everything all right. It was, of course, possible for them to make changes in the plans after I left and also to fail to put in things which they told me they were going to put. Since I found, a few days ago, how unreliable they were, I decided that I had better read your specifications again. On doing so, I find several small matters that should not be as

they are. Fortunately, the matters involve no special expense and can still be remedied. They are as follows:

1. The entrance steps to the basement from the yard should run in a north and south direction instead of an east and west, so that no turn would have to be made as the children enter the door. I told them to correct this on the plans before sending them over.

2. The doors to the basement should open outward, both the outside doors and all doors leading toward the outside. This is for safety in case of fire.

3. All floors should be made on edge grain pine, first-class. He has specified "D. & M." clear YP No. 1 flooring. I do not know what "D. & M." mean, but flooring must be edge grain or it is impossible to make it sanitary. The edge grain costs a good deal more than the straight sawed but is much cheaper in the end because it lasts two or three times as long and the floors do not splinter up and flake off. This change should be made by all means. Needless to say, it was positively against my instructions to the architect to have any except edge grain pine.

4. The shower baths indicate that the shower is to be centrally located overhead to discharge straight down. This is wrong. I sent a detail for the shower bath to discharge at an angle of 45 degrees from the front side of the stall. I think I sent this detail to you as well as to Waller. If you do not have it I will send you another copy. It makes turning off and on the water much easier and enables one to bathe without soaking his or her head if he so desires.

5. The stair rail which he has is too broad. I think I sent a detail for the stair rail also. If I did not, let me know and I will send it.

6. The attempt at a cove which is put in place of a quarter round base mould is absurd. You better use a simple quarter round unless you are willing to go to the expense of having an actual cove.

7. He had specified for class room doors, a three-foot six-inch door with three wood panels and one glass panel. I send you enclosed a door which is, I think, much prettier than the one-glass panel and will not, I believe, be any more expen-

sive. I hope that the contractor can put it in instead.

8. As between the Wolf black-board and the Hyloplate, I would advise you to use the Hyloplate.

With regard to the heating specifications, I have two sets of plans here, one of which has some corrections on it, the other does not. This leads me to wonder which set Waller finally sent you. There are a few small matters that I would suggest as to the heating system, as follows:

1. Instead of sawing off the doors going from the locker rooms to the toilet rooms in order to allow ventilation to pass under them, I would suggest that a wire gauze panel be put in place of the bottom panel of the doors. It costs very little and looks better.

2. Insist upon the Johnston temperature regulation. There are two or three other kinds probably just as good, but they have no local agency in Texas and if any accident should happen to the system you would have to wait for a man to come from St. Louis or Kansas City with material for making repairs. The Johnston Co. has an agency in Fort Worth.

3. I believe you can buy regular deflectors for your hot air inlets in place of screens at practically the same cost. I know that Lewis and Kitchen manufacture one which they sell at about \$3. I would suggest that you put these in place of the screens, even though the screens work satisfactorily. The deflectors have the advantage of looking a little better and enabling you to direct the air in any direction desired.

4. He has failed to provide any kind of cover for the vent ducts. This I have checked him up on before, but it seems to have done no good. It would pay you to have all the vent ducts in one group go out through one hole and place a globe ventilator over this, so arranged that the ventilator could be shut as soon as school is closed. This saves the loss of an immense amount of heat from the building during the night and gives absolute control over the matter, as well as protecting the ducts from the rain. With the group ventilators and the means of closing them at will, you could then regulate the outflow of air in case you should ever have an ex-

cessively cold spell and the windows should leak into the building more air than had been allowed for. The ventilators will save their cost in fuel in a little while.

5. When I looked over these plans and approved them they specified Sirocco fans. The change was made without my consent or knowledge. I do not happen to have at hand a data book on the Buffalo Cone fan and hence cannot check up this fan to see if it is ample. I will get the data book at once and do this. The Buffalo Cone is a good fan, but not as economical to run as the Sirocco, though it is a little cheaper to install.

I am dreadfully sorry that these errors are still in these plans. I corrected these plans three times and went over them just the day before they were sent to Marshall, I believe, but it seems impossible to get Waller and Field to do what they promise.

I hope to be in North Texas at no distant date and to get by Marshall to see you catch the big fish.

Very sincerely yours,

A. Caswell Ellis.

Mncs—

P. S. After writing the above, I decided to wait until I could get prints of the details I spoke of and send them in the letter. I therefore send enclosed the following:

1. Detail of shower baths. For the boys' baths, the little dressing room will be omitted.

2. Detail of stair rail and of properly made cove.

3. Cut of door, showing panelled glass above. This is double door, but the same style is made in single doors also.

I also send new prints of the cooking laboratory, details of cooking table and of cupboard. Please substitute these for the ones I sent last week. They are the same drawings except they are not so untidy looking on account of corrections being made in ink.

A. Caswell Ellis.

Note: (Five blue prints attached to above letter).

Austin, Texas, Sept. 1, 1912.

Supt. B. B. Cobb, Supt. Schools, Marshall, Texas.

My dear Cobb:

Your letter reached me some days ago, but the publishers were pushing

me so hard from day to day for copy that I am just now getting time to look at my mail.

I am very much obliged for letting me hear about the Denison work and for your good word for me.

The publishers are sending you to-day at my request a copy of "Fundamentals of Farming and Farm Life" by Prof. Kyle and me, with the aid of several experts. We believe this marks a distinct advance in texts on elementary agriculture. The inclosed circular letter, the preface, and the suggestions for the teacher give our aim and method. I wish you and your agriculture man would read this and, if you believe it commendatory, send me a letter that I may use with the Text-Book Board.

You know, of course, that I will not give a testimonial to the best friend I have unless I believe it is deserved, and I want everyone else to act the same way.

With cordial good wishes,

Sincerely yours,

A. Caswell Ellis.

I am sending a book also to your agriculture man.

Austin, Texas, Sept. 30, 1912.

Superintendent B. B. Cobb, Marshall, Texas.

Dear Cobb: Did that book on agriculture which I sent you ever arrive and did the one that was sent to your agriculture teacher ever arrive? If not, I will send you other copies at once; if they did, please write me as soon as you can, and have your agriculture man also write me and tell me what you think of this book. We have been delighted at the splendid commendations which it has received from the leading teachers and agricultural men both in Texas and in the country at large. It seems to be the universal opinion that it is far ahead of any other agricultural text that has ever appeared. However, you write me what you think of it, no matter whether you think well or ill of it.

With best wishes,

Sincerely yours,

(Signed) A. Caswell Ellis.

ACE-k

I want to use these testimonials with the Text Book Board.

The University of Texas.
Department of Extension.

Austin, Texas, January 15, 1916.
Supt. F. E. Masterson, Marshall,
Texas.

Dear Mr. Masterson:

Some time ago, I received the enclosed letter from Mrs. Atteberry. Just why she should have written to me, I do not know. A copy of my answer to her letter you will also find enclosed. I send both of these to you, so that you may know what the situation is, as I am sure that you will find a way of meeting it satisfactorily. Perhaps it would be best for you not to mention to Mrs. Atteberry, if she comes to you, that I wrote to you at all about the matter.

I hope that everything is going splendidly with you there, and remain, with best wishes, always,

Sincerely yours.

(Signed) A. Caswell Ellis.

ACE-M

Mrs. Atteberry's letter. Ans. to same.

University of Texas.
Department of Extension.

Austin, Texas, January 25, 1916.
Supt. F. L. Masterson, Marshall,
Texas.

Dear Mr. Masterson:

I am glad to get your very sensible letter of January 22nd and to know that you appreciated the spirit in which I wrote to you. I rather suspected from Mrs. Atteberry's letter that she was herself a nervous, excitable lady and was perhaps more disturbed by the keeping in of her child than the child was itself. However, I felt that it was a matter that you ought to personally know about, and hence wrote the letter.

I am delighted to know that you have sixty thousand dollars for new schools. I write to state that if you would like for me to come and speak to your board on the subject of School Hygiene, illustrating the correct principles of lighting, heating, ventilating, and arrangement, I shall be glad to do so entirely free of charge to the board. The University sends me out to help superintendents and boards in this incidental way as a part of the Extension work. This places neither you nor the board under any obligation to employ me as a consulting expert in hygiene to check over and help prepare the plans, as was done there when your

high school was built. I am sure that I can save you from making some mistakes, even by coming and making a speech to the board, as I bring with me numerous plans and photographs illustrating the very best types of school buildings.

School building seems to have started in earnest. I am now helping plan high schools and six ward schools in Brownsville, Orange, San Antonio, and Paris. I mean that I am acting as consulting expert on these in addition to the numerous other places in which I am giving incidental help.

If I can be of service to you, please let me know.

Sincerely yours,
A. Caswell Ellis.

The University of Texas.
Department of Extension.
Office of the Director

Divisions of the Department:

Public School Improvement.
Home Welfare.
Public Lectures and Publicity.
Child Welfare.
Correspondence Instruction.
Public Welfare.
Human Conservation.
Public Discussion.

Austin, Texas, June 3, 1916.

Hon. Ed H. McCuistion, Paris, Texas.
My dear Mr. McCuistion:

Your letter of May 4 reached me duly, and I have been looking each week to see you in Austin and to have the pleasure of a conference with you. As I have not seen nor heard of you, I fear that you may have come while I was out of town or that the tremendous pressure of other matters upon you has prevented your coming.

I am writing to say to you that if you think I can be of any service to you in the matter of planning for your future schools, or even in planning temporary arrangements, I shall be glad to come to Paris entirely free of charge and go over matters with you pertaining either to the buildings that I am consulting on or to any other school matters.

It would indeed be an awful mistake, now that you have probably your last chance in a generation to start out right with your high school, to allow another "mistake" to be erected. It would be much better to build temporary movable rooms

until such time as a properly constructed building can be secured. In any case, I shall be glad to go over the matter fully with you on the conference if you think there will be any use in it.

It is indeed most fortunate that Paris had a strong man to lean upon in this her terrible calamity. This may prove to be not such a great calamity after all in the course of time. I have sympathized greatly with you, and have thought about you numerous times. I have started several times to write you, but always decided that you were too busy to be bothered with any unnecessary letters, even of sympathy. I was sure that you knew me well enough not to hesitate to call upon me if there was anything that I could be of service with. I hope that you will feel perfectly free always to let me know when I can serve you in any way.

I am leaving town tonight, but will be back Tuesday morning and will be glad to come to Paris the latter part of next week, if you think there will be any special advantage in my doing so. It would really be a pleasure to me to contribute in any small way that was within my power to ease your burdens at this time.

Sincerely yours,

(Signed) A. Caswell Ellis.

E-S Acting Director.
(Dictated but not read.)

The University of Texas.
Austin.

Department of Education.

August 13, 1917.

Mr. Ed. H. McCuistion, Mayor,
Paris, Texas.

Dear Mr. McCuistion:

In reply to your recent letter I would say that my records here show that in August, 1915, the City of Paris paid me \$200.00 on account. If any other payments have been made, I have no record or recollection of it. My fee is one-half of one per cent of total cost of the negro school, the Graham Street School (Gelger & Fought, Architects) and the additions and improvements to the old high school. I had completely checked and rechecked plans for all these, and contracts were let for both buildings and heating systems, as I recall.

If my memory is correct in this, then I had completed all that I contracted to do, except inspect and test

the heating and ventilating systems at their completion. This would have taken about two days' time, and would be worth about \$50.00 to \$75.00.

The amount still due me, therefore, is one-half of one per cent of the total cost, or contract price, of the buildings and heating and ventilating systems of the three schools mentioned, deducting \$250.00 or \$275.00 on account of payment made and failure to test out the systems.

I stand ready to inspect and test the two buildings not burned, but as the Superintendent and Board seem not to desire this, I do not wish to be paid for it.

I regret very much that this work has been so unsatisfactory to both of us. You, perhaps, will recall that I did not wish to undertake it, and stated beforehand that it would be well nigh impossible to secure the desired results with a superintendent hostile to all my ideas, and with architects indifferent in the matter and anxious to keep in with the superintendent. There was no personal ill will at all on the part of the superintendent. He simply did not agree at all with my ideas, and naturally, preferred to see his own carried out.

I would be glad sometime to work with you under conditions that would not be so discouraging to both of us. I wish to express again my deep appreciation of your unfailing courtesy and support. It has been a real inspiration to know you and your work.

I hope you will let the frightful political cyclones that we have had here for several months be a sufficient excuse for my delay in replying to your kind letter.

Whenever you are in Austin, I hope you will let me have the pleasure of seeing you.

Sincerely yours,

(Signed) A. Caswell Ellis.

The University of Texas.
Department of Extension.

Division of Public School
Improvement.

Divisions of the Department.

Public School Improvement.

Home Welfare.

Public Lectures and Publicity.

Child Welfare.

Correspondence Instruction.

Public Welfare.

Human Conservation.

Public Discussion.

Austin, Texas, March 10, 1917.

The Honorable School Board of
Orange,
Orange, Texas.

Gentlemen:

I beg to report that on February 22, I made a final inspection of your white and negro high school and also made a test of the heating and ventilating systems. In regard to these I will report as follows:

Negro High School.

I find that the heating system is well installed in this building and would be capable of heating the building, at 25 degrees on the outside, up to a temperature of 70 degrees with the exception of the manual training room and the dining room. In the dining room I find a deficiency of about 7 degrees and in the manual training room a deficiency of about 15 degrees. I would suggest that an additional amount of radiation be placed in each of these rooms. There would be needed in the dining room one-fourth more radiation than is there now, and in the manual training room one-third more radiation than they now have.

I am at a loss to understand this deficiency in heating. However, it will be very easily remedied by the additional radiation I suggest.

I found that the distribution of air in the building had not been properly made, but with the aid of Mr. Stark, the distribution was corrected so that all the rooms now are getting the amount of air called for and a little in excess.

The thermostats had not been properly set, but the representative of the Johnson Company was there at the time with a view to setting them correctly. I would advise that the contractor be paid for the work in this building, reserving enough only to cover the slight expense of the additional radiation suggested. If the thermostats were not properly set by the Johnson people, then I would reserve in addition enough to guarantee their coming back on a cold day and doing that work properly.

White High School.

The white high school was examined and checked on February 23. Both this building and the negro high school seemed to me to be remarkably well constructed and certainly to represent values above what you paid for them.

The heating and ventilation sys-

tem in this building has also been well installed and should give you good service as soon as the deficiencies which I shall point out are corrected. I found the radiation short in several of the rooms. I also found that the fan was running at such a high rate that one-third more air was being blown over the radiators than that which was required, with a result that it was impossible to heat the building. With these deficiencies present and with the thermostats not properly set, the system was not ready to give it a test. As I had written to the contractor and given him distinct directions as to what to have ready before I came, I was surprised to find the system in this incomplete condition. I believe that when the corrections are made there will be no trouble at all in heating the building properly. Although I am expected to make only one test of a heating system, my interest in seeing that you get a properly installed system is so great that I shall return to Orange after this work is completed in order to see that you are getting perfect service. The plans and specifications cover perfect service and you should accept nothing less.

With regard to the deficiency in the radiation in the several rooms, I would say that I do not think these are sufficient to account for the failures of the system to heat up to the standard required. I think that the speed of the fan should first be reduced to what the contract calls for and if then under a thorough test the system does not develop the efficiency required by the contract, I would require that the additional radiation be put in.

As the remedy of all of the deficiency is not very expensive, I would suggest that only a reasonable fund, sufficient to cover these, be held back from the contractor.

I shall be in Houston about some other matters week after next, and, if everything is ready at that time, I should be glad to come to Orange and make another inspection. It is, however, useless for me to come there if the system is not put into the condition required by the plans and specifications before I come.

Respectfully submitted,

(Signed) A. Caswell Ellis,
Consulting Expert.

CONTRACT

The School Board of Orange, Texas, and A. Caswell Ellis of Austin, Texas, hereby enter into the following contract:

1. The said A. Caswell Ellis contracts to serve as consulting expert on school hygiene and school planning in the planning and testing of the following schools:

One high school and one combination high school and ward school.

The said A. Caswell Ellis contracts in detail to do the following:

1. To meet with the building committee and architect or architects and assist in the preparation of the rough sketch of floor plans for said building or buildings, and to furnish written memoranda and instructions, and, where necessary, to provide detailed drawings of such details and specifications as the hygienic requirements of the building or buildings demand.

2. When the detailed working plans are drawn and specifications prepared by the architect, to inspect and check over these again to see if there is any omission or error in regard to the hygienic and sanitary features of the building; and to file with the architect and chairman of the building committee a detailed written report on the plans and specifications, and where corrections or additions are found necessary, to give detailed information as to how this can best be done.

3. To make out a complete detailed schedule of the heating and ventilation requirements and to give to the architect such assistance as may be necessary in making the complete plans and specifications for the heating and ventilation.

4. When each building is completed and the heating and ventilating system installed, to make a thorough thermometer, anemometer and hygrometer test of said system, and file a written report on same with the architect and building committee; and in case any insufficiency is found, to give definite instructions as to what is necessary in order to secure perfect results.

5. To come to Orange at his own expense as follows:

To explain plans to the board and to test out the heating, ventilating, temperature regulating and air moistening systems.

The said School Board of Orange, Texas, contracts in detail to do the following:

1. To have constructed in accordance with the school building laws of Texas, one high school and one combination high school and ward school.

2. To notify the architect or architects employed of the existence of this contract, and secure from them a fair and reasonable co-operation with the consulting expert in school hygiene in accordance with the terms of this contract. It is to be understood that the hygienist is not an architect, and assumes no responsibility for any architectural matter except such as are involved in the planning and testing of the hygienic features of the building or buildings, and will not interfere with the architect in his field. It is also understood that the hygienist cannot be present to supervise the construction of the hygienic features of the building, and that the architect contracts to supervise said construction in accordance with the plans and specifications. With regard to the hygienic features of the building or buildings, the hygienist shall be the authority next to the building committee, and the architect shall not give final approval and authorize payment for the heating, ventilating and sanitary fixtures until tested and approved by the hygienist.

3. To pay to the said A. Caswell Ellis one-half of one per cent of the total cost of the building or buildings, including cost of the building, heating, ventilating, plumbing and lighting. Seventy-five per cent of this fee shall be paid when the plans and specifications are drawn and accepted by the committee, and twenty-five per cent when the final test of the heating, ventilating and sanitary features is made and reported in accordance with this contract.

1. A. Caswell Ellis.

2. Orange City School Board.

For R. Bradbury, President; Geo. W. Curtis, Secretary.

Mr. Hanger: Article No. 19—

The Chair: Let's have order, please, gentlemen.

Senator Gibson: The Senator from Morris has a question he wants to send up.

The Chair: The Senator from

Morris asks the indulgence of the Court while he writes a question.

Senator Hudspeth: Will the Senator from Morris write it out in longhand? (Laughter).

The Chair: The following questions by Senator Henderson: First: "Governor, is not the School of Mines a branch of the University, and is not the president of the University also the president of the School of Mines?"

A. Yes, sir, that is my understanding.

The Chair: Second—

Senator Lattimore (interrupting): We didn't hear the question.

The Chair: I will read it again. "Governor, is not the School of Mines a branch of the University, and is not the president of the University also the president of the School of Mines?"

A. That is my understanding.

The Chair: Second: "Now, what was the appropriation for the School of Mines that you approved?"

A. I think it is approximately twenty-five thousand dollars a year; I am not sure about that, but it is approximately that.

The Chair: Third: "How many students were in attendance at the School of Mines and what was the appropriation per student?"

A. I don't know. I understood the school was just opening up and they were going to move to a new locality and it was just being established, and I never heard how many students they had or expected to have.

Senator Hudspeth: I will suggest that we have a Representative here from El Paso, who might be sworn as to how many students there are.

The Chair: I have a request from the picture man that he be allowed to move in about ten feet closer to take pictures shortly before adjournment. Is there any objection? He said he had interviewed the Respondent and he had no objection. Now, is there any objection to moving the machine a little closer in just before adjournment today?

Mr. Hanger: Governor, he is asking you.

A. Me? Oh, no.

The Chair: Is there any objection from any member of the Court?

Senator Bailey: Mr. President.

The Chair: The Senator from De Witt.

Senator Bailey: I have no objection to taking the pictures, but this sun comes down on our heads here and it is uncomfortable. We had a resolution to have the Superintendent of Public Buildings and Grounds put that paper back up there. We are being punished here, and I would ask that it be put back as soon as possible. The sun comes down and the hair on my head is not very thick. (Laughter.)

Senator Hudspeth: For the benefit of the bald-headed members of the Court, I move that we have the paper put back.

The Chair: We will do that in the Senate. I will state to the Senator from DeWitt that that paper was removed without the knowledge or consent of the Chair; it was taken off during the night. The Chair criticized the parties for doing it, and they promised to put back enough to protect the bald-headed men in the front rows.

Senator Hudspeth: I suggest that the Senator from DeWitt be permitted to sit with the Chair, where he will be protected from the sun.

The Chair: All right, Gentlemen. Go ahead.

Q. Article 19 reads as follows: "The Governor of Texas has sought to use the power of his office to control members of the Board of Regents. The chairman of the Board of Regents had become surety on a bail bond, the case pending in Jones County, Texas. The defendant escaped and judgment was secured on said bond in the sum of \$5000 against the principal and sureties, one of the sureties being Wilbur P. Allen, chairman of the Board of Regents of the University of Texas. He applied to the Governor of Texas for the remission of the judgment."

The Chair: Mr. Sergeant-at-Arms, preserve order.

Sergeant-at-Arms: Let's have order, please.

Q. —"which he would have had to pay, and without good reason, but only to influence his action as a member of the Board of Regents, James E. Ferguson, as Governor, remitted the forfeiture of \$5,000, which, except for such action of James E. Ferguson, would have belonged to the people of Texas." Tell

the Court about that, please, Governor?

A. That statement that I granted a remission of that forfeiture to control Wilbur P. Allen's official action as a member of the Board of Regents is maliciously and deliberately false and untrue. The facts are simply these: Mr. Allen came to me several weeks, probably a couple of months, before the proclamation was finally issued, and told me about two Mexicans having a row on a farm under his control up in Jones County; that it resulted in one Mexican killing the other; that it was exceedingly doubtful whether—and that the Mexican had failed to appear and that the bond had been declared forfeited, and he said—told me that "We can locate this Mexican—we think we have got him located already; one of the Austin officials"—Mr. Barbisch, I think he said his name was, had already located the Mexican and as soon as conditions would clear up they felt sure they could return him for trial. He also told me that the officials were not certain about whether they could get a conviction or not, and that the Mexican's attorneys had for some unforeseen reason said something to the Mexican about the probability that he might be convicted and unnecessarily scared him off and that he had left, and that if the bond had to be paid that he was able to pay his part of it, but that the other parties were not able to pay their part of it and it would work a distinct hardship upon them to have to pay it, and that the difficulty occurred between the two Mexicans on this farm and he stated that he could get a statement from the officials out there to that effect, but that he wanted to see if he could not get the Mexican back and I told him, "Well, I would like for you to get the Mexican back, if you can, and want you to exhaust all the remedies you can to get him back," and a short time before the day the execution was to be levied he came to me and said that "I have been unable to secure the return of the Mexican down there on account of conditions, and I would like to get this fine remitted—this forfeiture remitted," and, after thinking the matter over, I requested him to write me a letter, giving me his promise that he would use every means in the world to cause the re-arrest of the Mexican

and his return for trial. He wrote me that letter and went into a statement of the case to a more or less extent, and after thinking the matter over I concluded that to make those parties pay the bond would not bring the dead Mexican back to life, nor would it bring the other Mexican back to trial, and I thought it best to have the friendship of the parties who were on the bond to use every effort and their promise to return the Mexican at some future date for trial rather than to impose upon innocent shoulders a pecuniary liability which was exceedingly burdensome for them to bear, and for that reason—for those reasons, and those alone, and in no way connected with the official action of Wilbur P. Allen on the Board of Regents, I granted the remission of that forfeiture of that bond, and that's all there is to that transaction.

Q. Did you understand anything about whether Allen had offered any reward?

A. Yes, he told me that he had offered a reward and that they had the Mexican located and that just as soon as conditions had cleared up he felt reasonably sure they could return him; and knowing that the conditions were as he said about the return of the Mexican, I thought it a distinct hardship to make any man pay a bond about a Mexican that had escaped into Mexico at this time without giving him every opportunity to return the Mexican for trial—giving him a longer time than you would under ordinary circumstances.

Mr. Hanger: Has any member of the Court any questions on this charge?

Q. Article 20 reads: "That the said James E. Ferguson has sought to improperly influence the courts of Texas in matters in which he had a personal interest, first: (a) After he had received from the Thirty-fifth Legislature at its Regular Session a bill passed by that Legislature for the increase of the salaries of certain judges, among others being those of the judges of the Supreme Court of Texas, he wrote them a letter calling their attention to certain provisions of the Constitution of Texas, and after they had ruled against him, vetoed the bill and gave as one of his reasons the fact that that court had allowed him no more than \$4,000 salary." What was it

you wrote to the Supreme Court about—what did you say?

General Crane: The letter speaks for itself.

Q. Did you write this letter?

A. That refers to the veto of the judges' salaries.

Q. I know that; I am coming to that. Did you write that letter read by Mr. Connerly?

A. Yes, sir, I did.

Q. That was merely preliminary to the other. Were you attempting in that to influence or to coerce them or to have any influence on them in the matter about which you wrote?

A. It is a reflection on my intelligence and more seriously a reflection upon the intelligence of the members of the Supreme Court, the members who constitute that body, to think that I could influence them by writing them a plain, simple letter calling their attention to a plain, simple provision of the Constitution.

Q. Had you personally read or inspected the briefs submitted by counsel before that time?

A. No, sir, I had not.

Q. Had you had time to read the briefs if they had been submitted to you?

A. No, sir, I had no time to read briefs.

Q. Now, this says that after you wrote that letter—let me get the exact language: "and after they had ruled against"—you, that you vetoed the bill increasing their salaries. Did you veto that bill?

A. I did, for the reasons stated in the bill.

Q. In the veto, you mean?

A. In the veto, yes, sir.

Q. Did the fact that the Supreme Court had held against any contention that you had made or that had been made in your behalf or that might beneficially affect you in the Middleton against Terrell case, or the Terrell against Middleton case, have any influence upon you in any way in vetoing the Judges' salary bill?

A. Oh, not in the slightest. I vetoed the Judges' salary bill because I thought it was a wholesale raise of salaries of judges all over the State when there had been no demand for it and that they were reasonably well satisfied or well paid, and as I stated in the veto mes-

sage, there is no difficulty to get good men on the district bench; every time there has been a vacancy since I have been in office there are plenty of good men who sought the position.

General Crane: Those reasons are all stated in that bill, Mr. President, and besides that, there is a distinct reference to the opinion that the salary of four thousand dollars and no more was enough for the Governor. I think he should not be permitted to try to explain that away when it is written in the veto message.

Mr. Hanger: He is not trying to explain anything away, here nor elsewhere.

The Chair: Well, proceed, Governor.

A. Well, that's about all the explanation there is to it.

Q. Paragraph (b) of Article 20: "That while the case of Maddox vs. Dayton Lumber Company"—

Senator Bee: Mr. President, unless Senator Hanger desires to go on, it is now 12 o'clock, and it would be starting a new inquiry, and I move that we rise to meet at 2 o'clock.

The Chair: Senator Bee moves that the Court now rise to meet at 2 o'clock this afternoon. Those favoring the motion will signify it by saying "Aye," those opposed "No." The ayes have it and we will rise now to meet at 2 o'clock this afternoon.

(Thereupon at 12 o'clock m., the Court recessed until 2 o'clock p. m.)

In the Senate.

President Pro Tem. Dean in the Chair.

Recess.

At 11:58 o'clock a. m. the Senate, on motion of Senator Lattimore, recessed until 2 o'clock today.

After Recess.

(Afternoon Session.)

The Senate was called to order by President Pro Tem. Dean.

In the Court.

Tuesday, September 18, 1917.

Afternoon Session.

(Pursuant to the recess adjournment, the Senate, sitting as a Court of Impeachment, reconvened at 2 o'clock p. m.)

The Chair: The time having arrived for the convening of the Court of Impeachment, the Sergeant-at-Arms will see that the bar is cleared of all except those having its privileges, and likewise the Chamber. Now, let us have order.

Thereupon, the respondent,

JAMES E. FERGUSON,

resumed the witness stand, and in answer to questions propounded, further testified as follows, to wit:

Direct Examination Continued.
By Mr. Hanger.

Q. (Reading): That in Article 20, the reading of which was begun just at adjournment— "That while the case of Maddox vs. Dayton Lumber Company was pending in the Court of Civil Appeals at Beaumont, and after a motion for rehearing had been overruled, and in the case in which the Governor was a party, and the decision of said Court being against him and his associates, he wrote to one of the members of that Court who had asked an endorsement by him, declining to endorse him, and bitterly criticising the decision of the Court in that case, and mailed copies of the letter to the other members of that Court. That within a few days thereafter his attorneys filed a second motion for rehearing." What were the facts about any letter, if any was written, to any member of that Court, and if so, to what member was it written?

A. I received a letter from Judge A. C. Brooks, a member of that Court, asking me to write him a letter that, in effect, that I had approved his course on the bench, and that I had watched his course and had approved it. I answered that letter and told him that I couldn't, regretted—

General Crane: Well, the letter is in evidence.

A. The letter is in evidence.
General Crane: Yes, both letters are.

A. Well, I answered the letter just as it was.

Q. Yes?

A. As it has been read. And there was no intention to in any way influence the Court; as I stated, the Court—

Senator Bee: Governor, will you speak a little louder?

Q. A little louder?

A. The Court had rendered its opinion at that time, and I was giving to the best of my ability the reasons why I could not endorse his record.

Q. Did you keep up with the times when the various motions, such as were filed in that case, were filed by your attorneys?

A. No, sir, I didn't, I—

Q. Governor, you heard the witness Mansfield testify. He testified that you made some comment about the judges of that court. State whether or not you ever told Mansfield that those judges were ingrates?

A. That is absolutely and maliciously false; I never told him any sort of thing, or anything like that.

Q. When you wrote the letter to Judge Brooks, did you understand what use he desired to make of your reply, had you written him the letter he desired?

A. Oh, yes, it was apparent from the letter that he wanted to use it for campaign purposes.

Q. Yes. Article 21 (reading): "That during the session of the Thirty-fifth Legislature, James E. Ferguson, as Governor of Texas, submitted to the Senate of Texas the nomination of C. W. Woodman for confirmation as Labor Commissioner. The Senate of Texas refused to confirm the nomination. That the Governor then submitted to the Senate of Texas the name of Frank Swor, Deputy under C. W. Woodman, which nomination was confirmed by the Senate. But that he had failed and refused to qualify, and more than a reasonable time has elapsed since his appointment, but he has continued to act as Deputy, and the said C. W. Woodman has continued to act as Commissioner. And knowing these facts Governor Ferguson has failed and refused to make an appointment, and C. W. Woodman,

although confirmation was refused him by the Senate of Texas many months ago, continued to hold the office and draw the pay. That it was the duty of the Governor, when the Senate refused to confirm C. W. Woodman, to make another nomination, and in case the nominee refused to qualify, that it was his duty to make another appointment; but that he has failed and refused to do so in defiance of the Constitution of Texas and his oath of office." Tell the Court, Governor, about that Article No. 21?

A. As stated in the article, I sent the name C. W. Woodman to the Senate for confirmation of my appointment of him as Labor Commissioner. The Senate rejected that appointment, and thereafter I sent the name of Frank Swor, and the Senate confirmed that appointment. I had no further particular notice about the matter, and intended and expected Frank Swor to qualify as Labor Commissioner. It appears that for some time thereafter he did not qualify, and I have learned since that it was on account of some policy inaugurated by Mr. Woodman that they wanted to close up before he did qualify, and that at the time that article was passed in the House, if I am not badly mistaken, I think I had already approved his bond as Labor—Frank Swor's bond as Labor Commissioner, and he had qualified, and is now the duly acting and qualified Labor Commissioner of the State.

Q. And did you have anything to do with his failure to qualify?

A. None whatever; I expected all the time that he would qualify, and—

Q. Governor, going back to a matter not embraced in the charge, but about which Mr. Mansfield testified, some question was asked here about an attorney's fee—

A. Well, as the contract—

Q. —in that case?

A. As the contract states that was read here, there was forty-eight—of the \$48,000 bonds, three of them for \$8,000 each, were delivered at the time I executed the deed, and three of them were put in escrow under the terms of the contract, with which Mr. Mansfield and everybody else connected therewith were well aware; we paid Judge Stevens \$3,000 for fees as his part of the first \$24,000, and he was to get \$3,000, or a total of \$6,000, out of the other when the matter was finally settled. Every-

body knows—everybody connected with it, Mr. Mansfield and everybody else having any connection with that, and—

Q. What has he collected now—Judge Stevens?

A. He has—he collected \$3,000 out of the first set of the bonds, and he has assigned his interest to me for the other \$3,000.

Mr. Harris: How much, Governor?

Mr. Hanger: \$3,000 he has said.

A. \$3,000, \$6,000 all told.

Mr. Harris: I know, but what was the consideration?

A. Money, money, like most lawyers, he wanted the cash before the work was done.

Mr. Harris: How much, though, I asked?

A. \$3,000—I mean \$3,000 out of the last, and he got \$3,000 out of the other.

Mr. Hanger: Give us just a moment.

Senator McNealus: Mr. President.

The Chair: The Senator from Dallas.

Senator McNealus: I would like to send up a written question.

(Senator McNealus sent a written question up to the Chair.)

The Chair (to Mr. Hanger): You do not care to ask a question right now?

Mr. Hanger: No, sir, I don't, that is all right.

The Chair: I will read this question propounded by Senator McNealus: "Mr. Ferguson, have you ever examined the expense account of C. W. Woodman as Commissioner of Labor between January 1, 1916, and September 1, 1916, as shown by the sworn vouchers at the office of Comptroller of Public Accounts?"

A. No, sir, I have not.

The Chair: Any further questions, gentlemen?

Senator Hudspeth: Just a minute, Mr. President.

The Chair: This is a question by Senator Johnston of Harris: "Is C. W. Woodman at the present time filling any position in the Department of Labor?"

A. Not that I know of.

The Chair: This is a question by Senator Hudspeth: "Governor, I want to get the matter of the attorneyship contract cleared up in my mind. Did the contract signed by yourself and Mansfield, now pub-

lished in the record of this case, call for \$3000 attorney's fees or \$6000? Please state fully?"

A. It called for \$6000, \$3000 out of the first \$24,000, and \$3000 out of the remaining, or last maturing \$24,000, when the matter was finally determined.

Senator Hudspeth: I saw the contract up there, but I didn't remember it.

A. Yes, sir.

Senator Hudspeth: Then, how could he be mistaken about the terms of the contract, if there was a contract signed by him calling for certain attorney's fees?

A. Absolutely he could not be mistaken, he knew all about it, and like any other man who has been all his life in one job, he knew more about it than anybody, and he could not have been deceived; the terms of that contract show—the terms of the contract itself, shows the interest of everybody connected with it.

Mr. Harris: I think that the statement ought to be made that Mr. Mansfield said the Governor had signed that contract, or had stated that he had signed the contract with Mr. Stevens providing for \$3900 fee, and \$500 additional if the litigation was successful, when the Governor claimed that it was \$6000.

Senator Hudspeth: Yes, sir, I so understood it, Mr. Harris—I understood Mr. Mansfield to state that he understood the contract to be something like \$3000.

Mr. Harris: \$3900.

Senator Hudspeth: And \$3000 had not been collected.

The Chair: This is a question by Senator Bee: "Did you receive any fee from Mansfield in any amount?"

A. Never from Mansfield, no. All the sources of revenue from that was what we realized from the sale of the different lands to the Dayton Lumber Company.

Mr. Hanger: Are there any other questions? (To the witness.): Is there any other statement you desire to make in this connection?

A. Not that I recall now.

Mr. Hanger (To Counsel for Proponents): Take the witness.

Senator Hudspeth: Just a minute, may it please the Court?

The Chair: Senator Hudspeth desires the indulgence of the Court while he writes a question.

(Senator Hudspeth sent up a question to the Chair.)

The Chair: This is a question by Senator Hudspeth: "Governor, were you entitled to any fees in the Dayton Lumber Company matter?"

A. I beg your pardon, I did not catch that?

The Chair (reading): "Were you entitled to any fees in the Dayton Lumber Company matter?"

A. My services were to a joint partnership, the matter of fees has not been determined yet, but I think I am entitled to a reasonable compensation for services personally performed by me for the partnership originally existing between Mansfield and myself.

The Chair: This other question, by Senator Gibson (reading): "Did you say that Judge Stevens, your attorney in the suit in which you and Mansfield were associated, had transferred to you his \$3000 attorney's fee, which was to be collected out of the last three bonds which were put up in escrow? Second (reading): If you say he did, then what did you give him for said assignment?"

A. I gave dollar for dollar, I think it was about \$3000 in cash that I paid him at different times, not all at one time.

The Chair: Any other questions, gentlemen? There seems to be none, gentlemen. You will proceed.

Cross Examination

By General Crane.

Q. Have you a copy of the receipt that you gave to Governor Colquitt for the money or the funds—

Senator Bee: Oh, General Crane, will you speak a little louder? Confusion arises—

General Crane: Yes, sir, yes, sir.

A. I think I have, General, but I haven't it here.

Q. Can you get it?

A. Yes, sir, I think so.

Q. Was that receipt for \$101,607.18, being the deposits as they were in the bank, as it then existed?

A. I think not, I think the receipts—I receipted him in kind for what I got.

Q. Can you send to your office now and get it?

A. I think so, if you will just give me an opportunity.

Mr. Hanger (to General Crane): If you want, we will go for it now—right now.

General Crane: Yes, sir, I would prefer to—if the Court will excuse us just a moment.

The Chair: Yes, sir.

(Mr. Hanger, accompanied by the Respondent, left the bar, whereupon the following motion was made).

Senator McNealus: Mr. President.

The Chair: The Senator from Dallas.

Senator McNealus: Would it be in order to move that the Court rise and stand at ease for five minutes? I ask the unanimous consent of the Court to stand at ease for five minutes.

The Chair: The Senator from Dallas moves that the Court stand at ease for five minutes while a document is being brought up. Any objection? There being none, the Court will stand at ease for five minutes.

(At the expiration of a short recess, the Court resumed proceedings as follows, to wit):

The Chair: Gentlemen, we will resume work as a Court now. Are you ready, gentlemen?

Mr. Hanger (to General Crane): We could not find the paper.

Q. (By General Crane, resuming): Have you any statement of the amount of money received from each bank in which Governor Colquitt had theretofore deposited?

A. (Referring to paper): Yes, sir, this is a memorandum which I have here, which I read in evidence on my direct examination.

Q. That typewritten memorandum?

A. Yes, sir—furnished me by my secretary.

Q. This indicates a memorandum of receipts from Governor Colquitt, without giving the dates. Was it all received at one time, or at different dates?

A. At different dates; some of it—

Q. To be sure, I know that the money was received at different dates from the different banks, but did you receive the different certificates of deposit all at one time from Governor Colquitt?

A. I did not—my recollection is I did not. I think it was a day or two before the delivery was finally completed.

Q. Yes, sir—they were all received within a day or so?

A. I think so, that is my recollection.

Q. Then, you settled with the respective banks at the expiration of the—

A. Obligations.

Q. Obligations?

A. Yes, sir.

Q. If it was a time deposit, you waited until the time expired; if it was simply a checking account, you took it out when you got ready?

A. Yes, sir. My recollection is there were no time deposits, the time of the payment of all the money had expired and all were subject to check, though, at any time—I didn't mean there had not been any time deposits, but what I mean to say is, that the time for payment of the time deposits had lapsed and the money was subject to my check in that bank.

Q. To be sure, the whole amount was subject to your check at any time?

A. Yes, sir.

Q. Did you let any of it remain in the First National Bank, the Canyon City National Bank of Canyon City, or the Plainview Bank, or the Amarillo Bank for any considerable time after you were inaugurated Governor?

A. My recollection is that the money in the Canyon City Bank was paid over shortly after I had had the funds delivered to me by Governor Colquitt. The money in the Amarillo Bank was agreed to be remitted at the rate of \$10,000 a week, and that probably several weeks elapsed before all of it was paid; and the Plainview Bank, I think it was probably two or three months before they paid all their money.

Q. They continued to pay interest as at first obligated?

A. Yes, sir, I think so.

Q. Each of them?

A. Yes, sir.

Q. You have not been able to find the original receipt, counsel tell me?

A. No, sir; I thought we had it over at the House investigation, but it seems to have been misplaced—the copy of the receipt.

Q. Now, it is in evidence that the contract to build the Canyon City Normal was made on December 14,

1912, just a few weeks before your inauguration?

Mr. Hanger: 1914.

General Crane: 1914, yes.

Q. And it was to be completed, upon certain conditions, by September, 1915, that is admitted, and then after that the addition of the wings to be agreed on was not to be completed until the following February, 1916. You deposited this money when you got it not with any bank at interest?

A. No, sir.

Q. You deposited in the neighborhood of fifty thousand dollars in your own bank at Temple?

A. I think it was about forty—I didn't make the deposit with the Temple State Bank all at once, but as I received the remittances from these different banks I distributed it between the Temple State Bank and the American National Bank and the other banks which I have mentioned.

Q. It is in evidence here from the Temple State Bank that you had about fifty thousand dollars there at one time?

A. No, sir, I don't think it is in evidence that I had that much there at any one time.

Q. There was that much deposited there during the season?

A. During the time, yes.

Q. Yes, and it was deposited just so. Now, your bank was a bank of \$125,000 capital, wasn't it?

A. Yes, sir.

Q. It had, according to the bank reports which you heard read, very much paper that was not regarded as good?

A. Yes, sir.

Q. Some twenty-five or thirty thousand dollars?

A. Yes, sir.

Q. Maybe more. It had, in addition to that—you had at that time carried your bank building at a valuation of \$100,000, didn't you?

A. Yes, sir.

Q. Now carrying it at one hundred and fifty thousand?

A. Yes, sir.

Q. You had the ordinary bond security—not the guaranty fund, but the guaranty bond security?

A. Yes, sir.

Q. Signed by, I apprehend, the officers and directors of the bank?

A. Yes, sir, and I think probably one or two other people outside of the bank; I don't recall just now.

Q. Your bank was not a State Depository under the Bank Depository Law?

A. No, sir.

Q. It gave no security to the State for this fifty thousand dollars deposited or the different parts of it, whether there at one time or not?

A. No, sir.

Q. You deposited some of the money in the American National Bank at Austin?

A. Yes, sir.

Q. You required no bond or security from it or no rate of interest from it?

A. No, sir.

Q. You deposited a small amount of that money for a time with the Heidenheimer Bank?

A. Yes, sir.

Q. In that bank you also owned forty per cent of the stock, I believe, Governor?

A. Yes, sir.

Q. You made another deposit of some twenty-five hundred or five thousand dollars, which ever it was, with the Houston National Exchange Bank?

A. No, it's the Union National Bank.

Q. The Union National Bank?

A. Yes, sir, Mr. Dunn's bank.

Q. Mr. Dunn's bank, yes. Now, about what time was it that you made a deposit with the Bastrop bank of which Senator Page is president?

A. Really I don't recall. Probably—his statement here about the deposit refreshes my memory that it was some time about the close of the session of the Legislature.

Q. This last Legislature?

A. No, sir.

Q. Two years ago?

A. Two years ago, yes, sir.

Q. Do you remember the amount of that deposit—twenty-five hundred or two thousand?

A. Twenty-five hundred, my recollection is.

Q. What was your purpose in making a deposit there of money that way?

A. Just to put it in bank like anybody else, I wanted to put it with people I knew and where it could be gotten when it was needed.

Q. Now, the facts show—Why did you put it in the Temple Bank?

A. So it would be available where

I knew I could get it when the time came.

Q. Well, if the money had been placed in the State Treasury would it not have been equally as available?

A. Well, it might have been; I suppose it would, only that it would then have been beyond my control.

Q. Well, you finally, before it was paid out on those estimates you put it in the State Treasury and it then went beyond your control?

A. Yes, sir, but I never put it in the Treasury until the estimates had been officially approved by the Canyon City Regents—

Q. To be sure.

A. —or Managers, and then I put it into the Treasury when I thought this money would be applied to that specific purpose.

Q. To be sure, but that was a question for the Treasurer and the Comptroller to determine, wasn't it, and if wrong—if they were retaining that money in the general fund when it ought to have been applied to some special purpose, the remedy was by mandamus from the Supreme Court, which would have been immediate?

A. Well, I never thought about that, General, at all.

Q. Never thought about it?

A. I never thought about mandamus. My idea was to just pay it on the estimates to the building.

Q. Well, don't you admit that your holding it that way was no protection to the State or to the people contracting with the State, because you finally put it into the Treasury, didn't you, before it was paid out on those estimates?

A. Well, the question of protection never entered my mind. What I had in mind was to have it applied to the specific purpose for which the insurance was taken.

Q. Well, if it had been put into the Treasury and no deficiency created or caused in any way it would have been available for any debt the State might owe if proper appropriation had been made for it, wouldn't it?

A. It would; but if I had known then what I now know, I never would have put it in the Treasury; I would have paid it to the contractor direct, so he would not have had to discount his warrants.

Q. Well, we are not dealing in futures, now, but trying to understand what was done.

A. All right, General.

Q. You used that money for the ways stated. You drew your drafts or checks, all of them, on the American National Bank for the funds and then you made them payable to the Treasurer, they went through the Treasury, deposited through the Comptroller's office in the ordinary way, and then you would call on the Temple State Bank to remit to the American National Bank?

A. Yes, sir.

Q. Now, how would those demands be made—in writing or by wire or how?

A. Well, I don't recall now specifically how it was done, but it might have been done by telephone or letter or otherwise; I don't recall just how that was done. I know there was one letter read in the record here that I signed where a certain amount was asked to be remitted.

Q. Yes. The last check was on the 27th day of April, 1916, wasn't it?

A. I don't remember the date.

Q. That money, then, remained, so much of it as you had—

General Crane: Mr. President, indulge us just a moment.

The Chair: Yes, sir.

Q. Well, the bank records show that that was the date at least of its presentation, the 27th day of April, 1916.

A. Well, we can assume that that is correct.

Q. Yes. The result of that last check was to overdraw your account down here, wasn't it?

A. It now appears that that was the effect of it.

Q. Well, you found that out within two or three months afterwards or sixty days afterwards, didn't you?

A. I found out some time after that that I had an overdraft down there.

Q. That you had an overdraft in your Governor's account?

A. Yes, sir.

Q. Well, now, in that Governor's account, in which you kept the Canyon City funds, you also had the Adjutant General funds which you had collected, the Good Roads funds, and the Red Cross funds?

A. The King's Highway funds.

Q. The King's Highway funds?

A. Yes, sir.

Q. Now, on the 23rd day of August it seems that your personal note

at the Temple National Bank—the First National Bank of Temple—was paid out of your Governor's account at Temple?

A. It now appears that that is true.

Q. It seems also that a statement was sent to your office—what is the date of that statement with the checks attached—with the charge tickets attached?

A. You mean the first one or the last one?

Q. The first one.

A. That was in September, 1915, I believe it was.

Q. That statement was sent—

A. (Interrupting) Dated September 1st, 1915.

Q. There are only four items on it, are there, Governor?

A. Yes, sir, that's all.

Q. The first three items are the amounts of money claimed to have been remitted to the American National Bank, aren't they, of Austin?

A. It just says "Remitted to Austin."

Q. "Remitted to Austin"—doesn't say how?

A. No, sir.

Q. A ditto under that and all the others?

A. Yes, sir.

Q. Now, each one of those charges against your Governor's account in Temple had a charge ticket as a voucher, didn't it?

A. Yes, sir.

Q. Now, the first three of those items indicate that the money was sent to the American National Bank, doesn't it?

A. Yes, sir, as well as the fourth item.

Q. Oh, that's a charge ticket?

A. No, you are right about that. The charge ticket does not.

Q. The charge ticket plainly shows—the first three lines on it, "Note First National Bank, Temple"—

A. "Note First National Bank, Temple, \$5,000; interest \$600"—

Q. That interest is on, the line just below that?

A. Yes, sir.

Q. Total \$500?

A. And "Note mailed to Austin."

Q. And that is plainly written there, isn't it?

A. Yes, sir.

Q. Now, you say you never saw that within your knowledge?

A. No, sir.

Q. Your Secretary didn't show it to you?

A. No, sir.

Q. Well, now, you wrote yourself a little later, in April or March of the following year and received a statement from them—you wrote them for a statement of your gubernatorial account?

A. It now appears I did. I have no recollection of it.

Q. The letter is in evidence?

A. Yes, sir.

Q. Well, you procured another statement from them by that letter which you exhibited here yesterday?

A. Yes, sir.

Q. Have you that statement here?

A. Yes, sir. That bears date of April 3, 1916.

Q. Have you that statement here?

A. Yes, sir. Here it is.

Q. Well, there were only four items in that, weren't there?

A. I forget how many items there were—just two charge slips attached to that statement.

Q. That shows only two items with the charge tickets?

A. Yes, sir.

Q. That shows that the money was being remitted to the American National Bank?

A. Yes, sir.

Q. Now, a little bit later—

Mr. Hanger: Let's see that?

Q. That was the third day of April. A little bit later, now, on the 27th day of April, the large draft was drawn on the American National Bank after having gotten all the money from the Temple State Bank except the twelve hundred and seventy-eight dollars?

A. Ninety-seven dollars.

Q. Twelve hundred and ninety-seven dollars which created this deficiency. Now, you were advised of this deficiency, weren't you, the overdraft in the American National Bank?

A. No, sir, I don't recall that I was advised at that time.

Q. You were advised of it at some time, were you not?

A. I suppose I was by virtue of the fact that I find here my check that I gave to cover the credit to the Governor's account.

Q. Now, who had charge of your business in Temple?

A. Mr. Hughes, the Cashier of the bank.

Q. Mr. Hughes, the man who paid that note?

A. Yes, sir.

Q. He remained Cashier for quite a while, didn't he?

A. Yes, sir.

Q. Do you mean to say that Mr. Hughes never sent you that note?

A. I don't remember of ever seeing that note.

Q. You knew that that note was due in the First National Bank of Temple?

A. Yes, sir.

Q. Past due. You knew that it was held by a rival bank?

A. Yes, sir.

Q. You knew that your personal account had but about fifty or sixty dollars in it, didn't you?

A. No, sir, I didn't know what my account had.

Q. Well, you have ascertained that fact since?

A. Yes, it appears that that is true.

Q. You knew also that that Dayton Lumber Company account, the case still pending in court, that there was nothing checkable out of that?

A. No, sir.

Q. So that your gubernatorial fund was the only fund you had in the Temple State Bank that could be checked against?

A. Yes, sir.

Q. Now, when you got this account down here you thought enough of it and looked into it enough to ask them to send you a statement and they sent it in April?

A. I don't recall that, but it appears now that they did send me a statement.

Q. Well, don't you remember now that they did send you a statement—have you no memory about it?

A. No, sir, I can't remember it.

Q. Just what charge did Mr. Davis have of your private affairs?

A. Well, he had general charge of it and he paid my local bills, looked after my correspondence in reference to my personal business, and did just about what an average secretary would do in those classes of employment.

Q. Well, you did a good deal of business yourself, didn't you?

A. Yes.

Q. You wrote a good many letters about your private business?

A. Well, a good many of those letters that appear here, he wrote

them and I signed them perfunctorily.

Q. There are a few of them written in your own handwriting?

A. Yes, that is true.

Q. Some of them with your own additions to them at the bottom in your own handwriting with a pen?

A. Yes, sir.

Q. Now, you don't mean to say that you gave your private affairs no attention?

A. No, sir, I don't mean to say that is all.

Q. You were devoting your attention to public affairs?

A. Yes, sir.

Q. Well, didn't you regard it that one of the most important of the public affairs was the handling of that one hundred and one thousand dollars?

A. Yes, sir.

Q. That you were keeping out of the Treasury?

A. Yes, sir.

Q. Now, do you mean to say you never looked into the account to see how that money was being handled?

A. No, sir, not at all. When the estimates would be brought around by the contractor it would show on its face how much work had been done, how much money had been paid on the contract and how much had been retained under the terms of the contract and how much was due, and by looking at Mr. Gross' estimate I could always tell by a calculation, not only the amount due and the amount that had been paid on there, but the amount that would be in the fund in my possession.

Q. All right. Now, Governor, when you got your account with the Austin bank—I mean the American National Bank of Austin—you knew that you had deposited in that bank first and last \$101,607.18 of that Canyon City fund, didn't you?

A. Yes, sir, I knew that.

Q. You knew that—that is what you had supposed it was—that is what you intended?

A. Yes, sir.

Q. You knew also that there were several items that you had deposited in that bank of the King's Highway fund and the Adjutant General's fund in addition to that \$101,000, did you not?

A. I understood that to be true, yes, sir.

Q. And yet you found on the 27th day of April and extending

through that several months that the account was overdrawn to the extent of \$1847.50?

A. Yes, sir.

Q. Now, that indicated to you that with the building of that normal you had not only spent the hundred and one thousand dollars, but you had spent all the other funds you had deposited in that account?

A. It indicated no more to me than that I had overdrawn that much.

Q. That you had overdrawn?

A. I had made no calculations about any of it.

Q. Well, now, do you think that you were overlooking public business to such an extent that you disbursed \$101,000 trust funds and the other trust funds that did not belong to the State and were still overdrawn and still never looked into the matter?

A. I never thought about that matter. I knew there was in the National Guard fund only about three thousand dollars, and the proposition of five or six thousand dollars never concerned me. I knew it was perfectly safe, in the hands of good people, and that I could pay it at any time, and never thought about it.

Q. Well, but after it was paid out of the hands of the bank it was not in the hands of the bank?

A. Yes, that appears now to be true.

Q. You had used it, and the whole question depended upon your ability to repay it?

A. Well, I was perfectly able to repay it. I don't suppose anybody would question that.

Q. Well, didn't you testify in the House a few days ago that you were on the border of insolvency?

A. Oh, no, not at that time. None of this talk had been going around. But I call your attention to this fact, General: During the summer, at the very time, about the same time that this \$5600 was erroneously charged against my account, I borrowed \$7000 from the American National Bank on my own note. I could have borrowed, and did borrow after that, many thousand dollars from the Temple State Bank. Every bank in Austin was open to me, and consequently I never concerned myself about the \$5600 or as to the safety of the fund, because

I relied implicitly upon my Secretary to keep a correct record and the idea never occurred to me until you mentioned it that there was any chance that anybody might lose that fifty-six hundred dollars.

Q. Exactly. Now, you had been ten years a banker before you became Governor?

A. Approximately that much.

Q. President of the bank a large part of the time?

A. Yes, sir.

Q. Did you look after your bank's trust funds committed to your care with more care than that?

A. When I was in the banking business I did.

Q. Well, now, when you were in the Governor's office you were in that business?

A. Yes, sir.

Q. Well, didn't you feel it was your duty to look after the Governor's trust funds and see that they didn't slip away in sums of fifty-six hundred dollars?

A. I did absolutely look after the trust funds of the State, every dollar of it. There was never a time when the State's funds were in jeopardy to lose one cent of the State's funds.

Q. Not a time in jeopardy?

A. No, sir, not at all.

Q. But still there was a period from the 23rd of August until this investigation came on when you found that you had used State funds to the extent of several thousand dollars, and they were never repaid until Governor Hobby occupied temporarily the Governor's office?

A. Well, that appears now to be true, but I still adhere to my original proposition that there never was a minute that the State stood a chance to lose five cents.

Q. I understand that. Now, Mr. Davis, your assistant private secretary, was advised of the payment of this fifty-six hundred dollars out of the gubernatorial account, your own account, and applied to your personal indebtedness?

A. It appears that statement was furnished him.

Q. In a few days after it was done?

A. Yes, sir.

Q. A week or more. Then, that

he had that statement and had it in his possession and it has been in the office ever since. Now, then, you received a statement then the third of the following April showing also the state of the account, and then on the 27th of April, after you had transferred all the funds down here to Austin, that you drew a check which overdrawed your account, not only the Canyon City funds, but all the other trust funds you had in the same account—overdrew them and left you an overdraft of \$1,847.50?

A. It now appears that that is true.

Q. And it now appears also that the amount of the overdraft, plus the other trust fund which you had, which you applied to the payment of the Canyon City building, made precisely the amount of the fifty-six hundred dollars which had been applied to the payment of your personal note?

A. That appears to be true, but I knew nothing about it until in July of this year.

Q. Until July of this year?

A. Yes, sir.

Q. Now, did you immediately refund it?

A. Refund what, General?

Q. Refund the amount of money you found you had that belonged to the State?

A. There was nobody to refund it to—I had it in my possession.

Q. Well, wasn't there a Treasury to refund to?

A. No, sir.

Q. Couldn't you put it in the Treasury Department?

A. No, sir, part of it didn't belong to the State. The King's Highway fund, you couldn't put in there.

Q. Well, didn't that fifty-six hundred belong to the State?

A. That fifty-six hundred had been paid a long time before when I issued the large check.

Q. Well, the fifty-six hundred dollars had been paid?

A. Oh, absolutely, when the last big check was paid, the fifty-six hundred dollars having been taken out of the Canyon City fund when I gave my check on the American National Bank for twenty-one thousand and some odd dollars, that absolutely wiped out the fifty-six hun-

dred dollars and the State got every dollar of that fund back into its possession.

Q. Well, now, let's see if that is logical and sound. Out of that when you wiped out that trust fund there, funds belonging to the State, the King's Highway fund and the Adjutant General's fund, you paid for the Canyon City Normal, didn't you?

A. Yes, sir.

Q. You paid for the Canyon City Normal with what was left of the Canyon City fund and the Adjutant General funds, the King's Highway fund and these others, the flood sufferers, whatever they were, and it put you in an overdraft, in the red \$1,847, didn't it?

A. Yes, sir, that now appears to be true.

Q. Now, do you mean to say the State got this fifty-six hundred dollars back by that?

A. Why, absolutely. In other words, to show you that is true—I don't want to make an argument with you—

Q. All right.

A. To show you that is true, when I went to settle with Governor Hobby, suppose I had undertaken to turn him over fifty-six hundred dollars belonging to the Canyon City fund and not reported, the National Guard fund and not reported, the King's Highway fund, wouldn't that have been incorrect?

Q. No.

A. It occurs to my mind it would be.

Q. I can hardly credit my senses, Governor, that you should make that statement. You knew your account was overdrawn \$1,847.50?

A. Yes, sir.

Q. You knew that your note up there had been paid—know it now?

A. Know it, yes, sir, now.

Q. At the Temple State Bank?

A. Yes, sir.

Q. You knew that you had never put that fifty-six hundred dollars back into the account?

A. No, sir, when I went to look into it I saw what had been done. I saw when that big check was given that I had paid \$5,600 back.

Q. Where did you put it back—you simply got that big check with the balance of the funds on hand?

A. Yes, it now appears that is true, together with \$1,850 which the bank loaned me on the overdraft.

Q. \$1,850 was the only part of your money that went into it?

A. \$1,847.50.

Q. Now, you tell this Court that with the balance of the funds, after taking fifty-six hundred dollars out of it, with the balance of the Canyon City fund, with the Adjutant General's fund and the other trust funds in your hands and the \$1,847 that the bank paid you, that you paid back to the State fifty-six hundred dollars?

A. I most certainly do, because I will show you: The State only had \$101,607 in the Canyon City fund.

Q. I know that.

A. And the checks here show that \$101,607 was paid on that fund. It might have been that it came out of another fund, but certainly that debt was paid.

Q. Oh, I am not talking about the hundred and one thousand dollars being paid, but didn't you have fifty-six hundred dollars of the State's money all that time?

A. It now appears that between the dates of August 23rd—

Q. August 23, 1915?

A. And April, 1916, that I did.

Q. Well, then, did the State get back its money?

A. You mean the Canyon City fund?

Q. Yes. Let's wait a minute and see how you reason.

A. All right.

Q. What did you pay Governor Hobby?

A. I paid Governor Hobby, the receipt here shows what I paid Governor Hobby, it ought to settle that question absolutely. "Received of James E. Ferguson, formerly Governor of Texas, the sum of \$4693.50, the same being \$1546.85 to the credit of the King's Highway fund, \$30.61 to the credit of Storm Relief fund, and \$3116.04 to the credit of the Texas National Guard fund, now in the hands of said James E. Ferguson, the same received by me as Acting Governor from said James E. Ferguson. W. P. Hobby, Acting Governor."

Q. He receipted you for that fund?

A. Yes, sir.

Q. And you paid him that fund back again?

A. Yes, sir.

Q. Out of your own private purse?

A. Yes, sir.

Q. You had used that fund, every dollar of it, and \$1847 you got from the bank to pay off the Canyon City Normal, didn't you?

A. Between the dates specified.

Q. All right. Now, where has been the State's money from the date you drew that check until you gave it over to Governor Hobby the other day?

A. Well, it has been my liability to pay it.

Q. You owed it to the State?

A. Yes, sir, I did, and then had it in my possession.

Q. And it took all that money and \$1850 you put back in the bank to make that fifty-six hundred that was taken out for your benefit by your friend Hughes at Temple?

A. All I can say is that I had the money all the time, ready and able and willing to pay it when the Legislature should direct me what to do with it.

Q. Where did you have it?

A. I had it at my command.

Q. You didn't have it deposited to this trust fund account?

A. No, sir, I didn't.

Q. If you had it it was in your private account and private possession and subject to your private debt?

A. That is true.

Q. And that was during all the period up until the other day you settled? Didn't you know that you had that fund all the time?

A. That I had the fund?

Q. Yes, sir.

A. Yes, sir, in my possession.

Q. Did you know that you had overdrawn your gubernatorial account?

A. No, sir.

Q. And that there was only fifty-seven dollars there to your credit?

A. No, sir.

Q. And that you had used all that fund?

A. No, sir, I thought this check for \$1850 put my Governor's account straight.

Q. Balanced?

A. Yes, sir.

Q. You knew you were overdrawn \$1847.50?

A. It appears now I did, yes, sir.
 Q. You knew that the only thing you were paying was for the Normal School?

A. Yes, sir.

Q. You knew that the Adjutant General's fund had to be paid back some way?

A. Oh, yes.

Q. You knew that the King's Highway fund had to be refunded?

A. Yes, sir, and was being—

Q. Well, now, wait.

A. All right.

Q. You knew it had not been refunded until this investigation?

A. Yes, sir.

Q. And impeachment articles preferred?

A. That is what I was trying to explain to you, that it was being paid out and that I had paid out four hundred and fifty odd dollars of that money, on that King's Highway work.

Q. Yes, but from the date of April, 1916, until these impeachment proceedings were preferred in August, 1917, that money has been in your private account and there is no record of it in any bank whatever, is there?

A. No record in any bank but a record in my office of just what the liability was.

Q. Well, did you know it was in that shape all the time?

A. I assumed it was there all that time; my Secretary was keeping a correct book.

Q. You assumed that you owed that money to the State?

A. Yes, sir.

Q. That it was not in your account, you knew it was not in your account as Governor?

A. I didn't pay any attention to that at all.

Q. That's it, exactly. Now, on that particular date you borrowed seventy-two hundred or seventy-three hundred dollars from the American National Bank, the 23rd day of August—

Senator Bee: What year?

General Crane: 1916.

Q. And wasn't there \$1850 of that borrowed that you placed in the bank to cover your overdraft of the gubernatorial account?

A. I don't remember about that. That might have been true.

Q. It was August 2nd. Now, you must have known then that all the

trust funds in that account were drawn the day that you covered that overdraft?

A. I never thought anything about it, and don't now recall anything about it.

Q. Well, let's see if you don't. Don't you think if you knew you had in that account \$101,607.18, that you had in addition thereto the Adjutant General's account of \$3050, that you had in addition thereto a non-official account, but yet trust funds of the King's Highway, don't you think that when you found that that whole business had been swept away and that there was an overdraft, that you thought something of having used all those funds?

A. Well, I supposed most of them had been used, and I knew in a general way from consulting with Mr. Gross that the building had been completed.

Q. I am not talking about the building—leave that entirely out. I am talking about the Adjutant General's fund and the King's Highway fund. When you paid that overdraft didn't you know they had been used in building the Canyon City Normal?

A. No, sir, I didn't.

Q. But you know it disappeared—it disappeared from there?

A. Well, I never paid any attention to that. I was not worrying about the two funds. I don't think there was any great big sum, and I thought they were all right—knew they were all right.

Q. And you didn't pay any attention to the accounts at all?

A. No, sir, I did not.

Q. Didn't you get another statement from the American National Bank of the gubernatorial account a little bit later showing a balance of fifty or fifty-seven dollars?

A. No, sir—that is, I may have gotten the statement, but I don't recall it.

Q. Don't recall it?

A. No, sir.

Q. Well, you know now that is the only amount you have deposited there?

A. It appears now that is correct.

Q. Fifty-seven dollars?

A. Yes, sir.

Q. And it has been there a long time?

A. Yes, but I didn't know I even had fifty-seven dollars down there.

Q. No. When you came to Temple—from Temple to Austin you said

you owed the Temple State Bank only about twelve thousand dollars?

A. That's my recollection, yes, sir.

Q. You immediately increased your line on coming here and pretty soon owed them fifty or sixty to a hundred thousand dollars?

A. It now appears, yes, sir, that that is true.

Q. You kept increasing it constantly until your and your corporation's and your wife's account reached the point of about a hundred and seventy thousand?

A. Yes, sir, that is true.

Q. Her account being about fourteen or fifteen thousand and, yours and the corporation's about a hundred and fifty-five thousand?

A. Yes, sir.

Q. That consisted largely of overdrafts as well as notes executed?

A. Yes, sir.

Q. Now, you also were a large stockholder in that bank?

A. Yes, sir, I owned something over three hundred shares of stock.

Q. Well, now, you stated in the House you owned 360—350 or 360 shares, and yesterday you said 320 or 330. Will you now tell us precisely?

A. No, sir, I can't. It is somewhere between three hundred and twenty and three hundred and sixty. I just know in a general way.

Q. Don't you know on what stocks you get dividends?

A. I don't remember the amount of shares. I haven't got any dividends in the last two years and that has not been bothering me.

Q. Oh, it is not a dividend paying bank?

A. Not in the last year or so.

Q. Now, your deposits began to increase immediately up there—your gubernatorial account went in there immediately on your coming down here?

A. As stated heretofore, yes, sir.

Q. As stated heretofore?

A. Yes, sir.

Q. And your line of credit immediately increased?

A. I don't think it immediately increased, but it did increase during the year.

Q. When was your first increase?

A. General, I don't remember that. The record will probably show it there.

Q. Yes. Then it was in the latter part of 1915 that the officers be-

gan to deposit in your bank, wasn't it—July, 1915?

A. I think that is approximately true.

Q. That Mr. Patterson began to deposit there. You remember his accounts, how they ran?

A. No, sir, I don't.

Q. Well, that's in evidence?

A. Yes, sir.

Q. Now, those accounts, you reached the conclusion that the settlements had to be made only every ninety days?

A. Yes, sir.

Q. I believe you stated that those ninety days accounts were not very valuable for a bank, were they?

A. None of those short time accounts are very valuable.

Q. Then why was it that you agreed with Mansfield and that other man there, Sterling, of the Dayton Lumber Company, that in the event their money should remain in the bank at Temple as long as ninety days, to pay four per cent on that?

A. That was a different kind of deposit. That was a deposit that was to be increased; that was to be paid and would regularly increase at the rate of two thousand dollars a month and would stay there until the case would run the gauntlet in the court. It was fair to presume it would be a year, and probably two years.

Q. Then you had the Bell County account, which was about 7 1-8 per cent per annum?

A. Yes, sir.

Q. That was a checking account, too, wasn't it?

A. Well, part of it was a checking account and part of it was permanent, run for two years under depositary contract.

Q. Part of it was checking and part of it was permanent, run for two years under depositary contract?

A. They were checked out, but a certain part of that fund you could absolutely rely on.

Q. A certain part of it to be there?

A. Yes.

Q. But you were paying 7 1-8 or 7 7-8 per cent on the whole of it?

A. Yes, the bank did, they could not make any great profit out of it because there wasn't any great profit in it, but for advertising purposes.

Q. For advertising purposes they deemed it advantageous to the bank?

A. Yes, sir.

Q. It was worth what it cost, though?

A. That question, this is quite a different question though, from an account that would break into every ninety days.

Q. It would be replaced every ninety days?

A. It would commence low, run up high, then snap in two, then commence low, run up high, then again snap in two, and an account like that would not be near as valuable as an account with a sinking fund which remained.

Q. It would be valuable, though?

A. Which account?

Q. Three months account?

A. It would be inconsequential.

Q. Well, why did they change every thirty to ninety days, why didn't they let it remain, why didn't they let it remain with the Treasurer, and settle every thirty days?

A. Well, Mr. Patterson said he didn't want to be bothered with a settlement every thirty days.

Q. He didn't want to be bothered with a settlement every thirty days?

A. No.

Q. Therefore, to deposit in the bank he would have to make his deposits there, wouldn't he?

A. Yes, sir.

Q. Now, when that money was deposited in the bank, it was deposited subsequently in the American National Bank for the benefit of the Temple State Bank, wasn't it?

A. It now appears that is true.

Q. None of those deposits—the Temple State Bank collected two per cent interest on the monthly balance?

A. Yes, sir, that appears to be true.

Q. And those monthly balances ran up to several thousand dollars each month, didn't they?

A. Yes, sir.

Q. Now, you must admit that was an advantage to your bank, wasn't it?

A. To that extent, yes. I made none of those contracts, though.

Q. You discussed it with Mr. Patterson?

A. No, not insisting on that account.

Q. You didn't object to his doing that, did you?

A. No, sir, I didn't.

Q. You didn't object to his depositing it at Temple?

A. No, sir.

Q. Then afterwards the money was drawn out of the Temple State Bank and sent directly to Temple, wasn't it, by Patterson?

A. Sent to Austin you mean?

Q. No, sent from Austin to Temple, wasn't it?

A. Which money are you talking about, General?

Q. I am talking about the Banking Commissioner's fund?

A. Yes, sir, but that was done—I don't know, I understood he was carrying an account there, though.

Q. Carrying an account at Temple?

A. In the Temple State Bank.

Q. Temple is about seventy-three miles north of Austin?

A. Yes, if you will permit me. you have asked that question several times—

Q. Go ahead?

A. It appears to you that because Temple is seventy-three miles away and the American National Bank is just down the street here, that a great inconvenience would be experienced by doing business in Temple and not with this bank, where, as a fact, the same mail that carries remittances from this post office in the Capitol here to the American National Bank, mailed today, would reach them in the morning, and reach Temple in the morning, and a check given by the Temple State Bank, mailed at Temple, would get to the Treasurer at the same time as the one mailed down here.

Q. Why wasn't it mailed to some other bank except the one you happened to be interested in?

A. Just because I wanted—I suppose Mr. Patterson wanted to put it in a bank in Temple, one that I was connected with.

Q. You wanted to put it in a bank with which you were connected?

A. I didn't want to do it, but he wanted it.

Q. You didn't object to it?

A. I didn't object to it, no.

Q. Isn't it a fact you discussed with the Secretary of State, and so testified in the House, that you asked him to deposit in the Temple State Bank—

A. That was with Mr. Bartlett, but not with Mr. Patterson.

Q. All right. I am talking about the Secretary of State, but you did with him?

A. Yes, sir.

Q. Now, why did you ask him to deposit his funds, the funds of the people of Texas, in the Temple State Bank, and he deposited it in such large quantities?

A. Because I knew that he would have to put it in some bank, he couldn't carry it in his pocket until the expiration of ninety days, and it would be advantageous to the Temple State Bank for statement purposes.

Q. Be advantageous to the Temple State Bank for statement purposes?

A. Yes, sir.

Q. Now, Governor, you heard read the statement of the bank examiners down here, the reports to the Bank Commissioner, and at the date when those sums deposited by the Secretary of State in your bank, that the largest reaching as high as \$364,000, you were aware that you did not have in the vaults of the bank \$50,000, weren't you?

A. General, if I may explain to you about that—

Q. No, just answer my question?

A. Oh, yes, that is true.

Q. Now, where was that money, if it wasn't loaned out?

A. Well, it was in other banks.

Q. Drawing two per cent per month?

A. No, not per month, two per cent per annum.

Q. On the monthly balances?

A. Yes, in accordance with the custom.

Q. Yes, that wasn't loaned out to customers?

A. No, sir.

Q. I say, that wasn't loaned out to customers, was it?

A. No.

Q. Other banks, drawing two per cent per annum for the Temple State Bank?

A. Yes, sir.

Q. Was there anything to prevent the Secretary of State, after the money was collected, after he did so, from bringing it here to the Treasury and putting it in the vaults of the Treasury?

A. No, sir, no more than—

Q. (Interrogating): Anything in the world?

A. Nothing in the world, if he

had considered it his duty to deposit it, he could have gone right over and deposited it, but evidently he did not so consider it, and kept his money until such periods, until he thought the law required him to deposit it.

Q. You agreed with him, you advised him the same way, didn't you?

A. Everybody agreed with it, the Attorney General, everybody agreed with it.

Q. I think you would find out you are mistaken about everybody agreeing to it. But you agreed to it, didn't you?

A. I have not found anybody here who questioned it.

Q. Did you agree with it?

A. Of course I did.

Q. You agreed with him—

A. I agreed that was the law.

Q. You agreed that was the law?

A. Yes, sir.

Q. And you agreed that he could keep the money until then?

A. I never made any agreement with him.

Q. You suggested and talked it over, and consented to it, didn't you?

A. He put the money in the bank; he is a free agent, and he put it in there. He could have put it anywhere else he wanted to.

Q. I read from your testimony over in the House (reading): "Didn't you say then he suggested they be kept out for three months, to you," and you answered, "I think I suggested that the settlements required by law, make settlements only every ninety days, and Mr. Bartlett also suggested to me the idea of dividing the accounts around between the different banks?"

A. I think that is true.

Q. Wait a minute, now. "The suggestion of making settlements," that is another question, "every ninety days, would make that account more valuable than if there were settlements every thirty days, wouldn't it," and you answered "Yes, sir?"

A. I think it would.

Q. The settlements every ninety days were more advantageous to the bank?

A. Yes, sir, but the question of advantage was not considered.

Q. Oh, I understand. What is the Secretary of State's bond, do you know?

- A. No, I don't know that.
- Q. You don't know what amount it is limited to?
- A. No, sir, I don't.
- Q. You don't think he is bonded for as much as \$350,000?
- A. No, I think it is \$25,000.
- Q. Then, when the money was in his hands and carried to Temple, in the State Bank, the only security to be had was the Secretary of State's bond and the Temple State Bank?
- A. That is true, but what security has the State for four millions down there in the Treasury, with the \$75,000 bond of the Treasurer?
- Q. It is in the vault?
- A. Yes, sir.
- Q. It is guarded by the Capitol police?
- A. If he wanted to skip to Canada with it, he could go.
- Q. We have never had a Treasurer skip to Canada?
- A. No, but a \$75,000 bond is all the security the State has.
- Q. We have a great many defaulting bankers?
- A. Yes, that is true.
- Q. So, on the whole, the Treasury is quite as safe as the bank?
- A. I think so, I think so. The question of safety never entered into it.
- Q. Now, you went down with the Secretary of State to the American National Bank and found \$250,000 there of the money belonging to Texas, the taxpayers of Texas?
- A. No, not with the Secretary of State, General, with Mr. Heard, president of the bank.
- Q. Mr. Heard, president of the Temple State Bank?
- A. Yes, sir.
- Q. You went down there with checks from the Secretary of State, he had them in his hands, and you knew it?
- A. Yes, sir.
- Q. For \$250,000?
- A. Yes, sir.
- Q. Of the State's money?
- A. Yes, sir.
- Q. Now, you then introduced him to the various other bankers of Dallas—of Austin, so that he might have friendly relations with them, and then he took \$10,000 of the people's money and deposited it in Thrasher's bank, a little State bank?
- A. Yes, sir.
- Q. And took \$10,000 more and deposited it with the Austin National Bank?
- A. That is true.
- Q. And took \$10,000 more and put it in the State National?
- A. Yes, sir.
- Q. Why did he do that, what was the people's money being scattered around in that way for?
- A. Because it had not come time to settle with the Government, to turn it over to the State.
- Q. And it was thought that it would be an advantage to the Temple State Bank to cultivate friendly relations, to have deposits in each of these banks, isn't that so?
- A. Oh, not of the Temple Bank, especially—yes, oh, yes, for the Temple Bank.
- Q. For the Temple Bank?
- A. Yes, yes.
- Q. And Mr. Heard, its president, to become acquainted with them would increase the facilities in business of the Temple State Bank?
- A. No, it wouldn't increase the facilities very much, for the \$10,000 deposit would stay there only about forty-five days.
- Q. Well, it would increase the friendly relations and feelings?
- A. Yes, I guess that is true.
- Q. Did you suggest to him to make these deposits?
- A. No, he suggested that, Mr. Bartlett suggested it should be distributed around.
- Q. Mr. Bartlett suggested it should be distributed around?
- A. Yes, sir.
- Q. Now, at that time that money was all there, there was no clearing, as they call it, there were no collections to be made of it, it was just cash in the vault of the American National Bank, wasn't it?
- A. No, it wasn't—it wasn't cash, it was credits.
- Q. Well, credit, that is the same thing?
- A. No, quite a difference. You know, for every dollar cash in this country you do ten dollars of credit.
- Q. But I mean the State could go down there and get \$250,000 in cash, if it wanted to, couldn't it?
- A. Oh, yes, I suppose so.
- Q. It was there for it on its demand?
- A. Yes, sir.
- Q. Just like any other man's money?

A. Yes, sir, that is true.

Q. Now, instead of the State's getting the money and bringing it up into the Treasury, the balance of it was carried to Temple in a few days, wasn't it?

A. They got credit in the American National Bank.

Q. They got credit in the American National Bank for it?

A. Yes.

Q. But ultimately it was all drawn out and put up in Temple, the whole \$250,000?

A. No, it wasn't—well, it went to the credit of the Temple State Bank, they checked it out, I suppose.

Q. Well, don't you know that the \$250,000 came back and was made a part of that big deposit of \$354,000?

A. Well, I think so, yes.

Q. Yes?

A. Part of it remained on deposit at the American National Bank, but the account wasn't closed.

Q. Not closed, I understand that?

A. No.

Q. Now, all of that time the Treasury was open and accessible, wasn't it?

A. Absolutely.

Q. There was no reason why the money should not have been brought up here, except you didn't want to bring it?

A. Oh, yes—yes.

Q. Well, what was it?

A. The reason was it hadn't come time to deposit it.

Q. It hadn't come ninety days?

A. No, no, if you are correct about that, General, the Attorney General, the Supreme Court, the Board of Regents of the University and all the other officers here who pay their money in the bank every time they get a dollar, why, they all ought to be sent to the penitentiary.

Mr. Hanger: In the Treasury.

A. In the Treasury.

Q. Well, we won't discuss that, but it was your duty, as you well understood, to enforce those banking—those laws, wasn't it, and if anybody was violating the law, to get the Attorney General after him and see that he complied with it?

A. Yes, but I don't understand anybody was violating the law.

Q. You simply take the position that you were not required to pay money into the Treasury except every ninety days?

A. Yes, sir.

Q. Now, can you find any statute that authorizes the Governor to hold any money at all in his possession belonging to the State?

A. When the money comes into his hands, the statute itself contemplates that when it requires that he shall report to the Legislature all money that comes into his possession.

Q. Yes, but he is supposed to dispose of it, and not keep it?

A. Oh, he is no depository of the money.

Q. To be sure, and while he might rightfully collect money on bonds that is due to him, isn't it his duty to pay it over to the depository created by law, the State Treasury?

A. Well, that would depend upon the conditions under which he received the money, and the authority and obligation resting upon him to disburse the money. Governor Colquitt did not so consider that.

Q. Well, we are not dealing with him now?

A. Yes, well, all right.

Q. We are not dealing with him now, he has no inning here, and no one to speak for him. Now, Governor, you said you never intended that money to be profitable to the Temple State Bank?

A. I said I never intended to make any profits out of it.

Q. Well, you knew you would share any profits that the Temple State Bank made, didn't you?

A. No, I never thought about that, General.

Q. Although you owned more than one-fourth of the stock, and although you owned three-fourths of the shares?

A. Oh, I never thought about that. Why, General, as bad as you differ with me, you know I never tried to steal any money or speculate with it.

Q. Now, you know that is not my province to discuss that, that is for the Court later?

A. Well, I know that, but, then, you know I didn't try to steal that money.

Q. What did you want with money in your bank and exert yourself to get deposits there, if the question of the profits or dividends on bank stock never entered your mind for it?

A. Oh, well, the question, as I stated yesterday, for the purpose of having the money and this Canyon

City money where I could get at it, when I knew I could get it and apply it to the special purpose for which it came into my possession.

Q. Well, we have already gone over that. Before you could apply it, you had to put it into the State Treasury and it was paid out on drafts of the Comptroller, just like any other money. So, that it seems that—

A. After I had approved the estimates under the contract, to which that money was to be applied.

Q. Now, did you approve the estimates?

A. That is, when he brought it in to me and showed what it would be.

Q. Ah, he showed you the estimates?

A. Yes, sir.

Q. Yes, sir. But you had nothing to do with them, did you?

A. Well, some of the estimates. I don't recall of approving those estimates, some of the building contracts I did anyhow.

Q. Isn't it true that neither the contract nor the statutes required you to have anything to do with those estimates, but that they were to be approved by the President of the Board of Regents, by the masonry man, whatever he was, and then they were to be paid?

A. I don't recall any law that required me to approve it, and I don't think I did approve it; but having the funds in my hands to be applied to a special purpose, why, I thought it was my duty to see that that money was applied to that purpose, and that was the occasion for my inspecting the estimates.

Q. Now, isn't this also true,—that you testified over in the House in reference to these bank deposits, that "There was no sort of any question of the items of interest to be earned upon this amount of money, but simply to safe-keep the money in the bank, and incidentally to gain from it the advantage of the prosperous showing that it might give to the bank, an advantage that all bankers, by day and by night seek and study how to make?"

A. Oh, that—

Q. You stated that, didn't you?

A. I think so, yes, sir.

Q. Well, now, that is true, isn't it?

A. That is true, but that didn't—

I didn't have that in mind, any profits.

Q. Well, but wouldn't those advertisements and those favorable conditions constantly held up to the public necessarily bring about profits?

A. Oh, it would, but it would be so small that nobody thought about that.

Q. Well, now, then, are you mistaken when you say that incidentally to gain from it the advantage of a prosperous showing, that it might give to the bank an advantage that all banks and bankers by day and by night seek and study how to make?

A. Oh, yes, sir, read the—

Q. That all banks and bankers by day and by night seek and study how to make?

A. Well, that is true, bankers do do that, but I never thought about any profit in the matter.

Q. Well, what are bankers doing business for, for their health?

A. No, most of them try to do it for profit; but I was not running the bank then, General.

Q. They like to have a little profit, don't they?

A. Yes, sir.

Q. Yes, I see, but you were vitally interested in it?

A. Oh, not vitally interested, but I was interested in it.

Q. Yes?

A. The question of a forty-five day deposit, everybody will agree, was practically of no value to the bank.

Q. But you had one deposit up there from the Secretary of State for about eleven months, and never checked against it, didn't you?

A. Yes, sir. I didn't have it up there, the Secretary of State had it up there.

Q. The Secretary of State had it there?

A. Yes, sir.

Q. And it was kept there?

A. Yes, sir.

Q. Now, you carried \$60,000 of this money up there yourself one evening?

A. I carried a check for the Secretary of State.

Q. And wasn't it at the same time that you were discussing with that bank—that was in—about December or January—1916, wasn't it? You were discussing with that bank your over line?

A. I think that my affairs were being discussed, yes, sir.

Q. Yes. And didn't you make that deposit there with a view of letting them understand how much advantage you were to the bank, that you could increase its deposits?

A. No, sir, I never thought about that.

Q. How happened you to carry it on this particular night, when you were going to discuss the affairs that had been engaging the attention of the directors, and lawyers, for two or three trips down here with you?

A. It wasn't in the night, General; I left here on the Texas Special in the day time.

Q. Your meeting was to be at night?

A. The meeting was to be that night, I think.

Q. Well, the matter was all gone over, your private affairs, and you deposited that money?

A. I think so, I don't just recall how it was, but I remember we were discussing my affairs.

Q. Yes. Was the check exhibited at the meeting?

A. The Cashier did, yes, sir.

Q. The Cashier exhibited the check at that night meeting, \$60,000, that you had brought up there?

A. No, I don't think—as I recall it, the meeting wasn't at night, I think it was in the afternoon after banking hours.

Q. In the afternoon?

A. I may be in error about that, but that is the way I recall it.

Q. Yes—but after banking hours?

A. Yes, sir.

Q. I believe you stated that you recognized the force and effect of the Constitution which required the Governor to enforce all the laws of the State?

A. Yes, sir.

Q. You were aware of the banking law which prohibited the lending at that time of more than thirty per cent of the capital stock and the added surplus, if it made more than fifty per cent, to any one borrower, didn't you?

A. Subject to the conditions mentioned in the statute.

Q. You knew of the existence—I understand, you borrowed money and carried that over line for nearly two years, amounting in the aggregate to more than \$150,000, didn't you?

A. I don't think it ran as long as two years, but something over a year.

Q. There was an over line for more than two years, wasn't there?

A. Well, I don't remember just how long, but whatever the record shows there.

Q. It kept increasing constantly?

A. Yes, sir, under the agreement with the bank.

Q. Now, your theory is that that banking law is unenforceable,—is that right?

A. No, sir, I just simply say that that is a statute known as a directory statute, and has been applied, and is now being applied by the bankers of this State in a common sense way, and whenever conditions arise, why, there is not much attention paid to it.

Q. In other words, your theory is, that if any one stockholder, if he can make the bank secure, may lawfully borrow all of the capital stock, all of its surplus, and a part of its deposits, in spite of the statute, and it will be no crime, and the Governor is not called upon to interfere?

A. It wouldn't be any crime; it would be now, since—

Q. Well, even before?

A. No, sir, it would not be any crime.

Q. You say that the Governor can select the laws he can enforce, and ignore the ones he chooses not to enforce?

A. Oh, no, I have never stated that. The law applies to—

Q. Then, why do you say that you ought not to be amenable to the banking laws of the State?

A. Well, I am amenable to the banking laws, but just like any other citizen, certainly, because I am Governor, would not cause me not to receive the same accommodation or prevent me from receiving the same accommodation that every other man is getting every day.

Q. Do you know of any other man who is borrowing the entire capital stock of a bank?

A. Why, right in my own town I know of two or three men that have got more than the capital stock.

Q. More than the capital stock?

A. And lost it.

Q. Who are they?

A. W. R. Miller at one time got \$170,000.

Q. When, and from what bank?

- A. From the First National Bank.
- Q. W. R. Miller?
- A. Yes, sir.
- Q. How long since?
- A. Oh, I think it is seven or eight years ago.
- Q. Oh, that has been seven or eight years ago? I mean, within the time that you have been Governor. You see, we are not talking about ancient history, but of current events and State banks.
- A. Well,—
- Q. Do you know of any State bank that is loaning to one man more than the capital stock—since you have been Governor?
- A. Well, I do not, no, sir, now.
- Q. Do you know of any bank that is loaning half of its capital stock?
- A. No, sir. I do not.
- Q. Do you know of any bank or banker that is violating the law in the same way that the Temple State Bank violated the law in lending you that money, and to the same extent?
- A. Well, I think you are making the statement too long about violating the law, because a directory statute is quite different from an express statute, providing that such thing must be done and a penalty attached to it, and can be done.
- Q. Well, don't you know there was always a penalty attached to the officers lending more money than was permitted under that law?
- A. No, sir.
- Q. Don't you know there is a penalty, and was a penalty in law, all the time, to prevent the officers from making over-loans?
- A. No, sir.
- Q. You do not know that?
- A. No, sir.
- Q. And didn't we read that in the March investigation here to you?
- A. Oh, I think you read some statute about where a man fraudulently does a thing.
- Q. No—
- A. Or wilfully, or something like that.
- General Crane (to associates): Some of you find it for me, that banking statute for me, I don't want to stop to look for it.
- Q. Now, Governor, you have talked about your loan being for cattle. Do you mean to say you bought \$170,000 worth of cattle last year?
- A. Oh, no, no.
- Q. What portion of that overline was paid for cattle?
- A. I couldn't tell you exactly.
- Q. A small amount comparatively, wasn't it?
- A. Oh, I think some thirty or forty thousand dollars.
- Q. The rest of it was used in ordinary business transactions in which you were engaged?
- A. For feed, and things of that kind.
- Q. The cattle were mortgaged at the same time for other moneys, weren't they?
- A. Yes, sir.
- Q. Now, according to your theory though, Governor, and of a man's being able to borrow money, Major Littlefield here, a rich man, able to give ample security, could borrow all of the capital stock and surplus and all of the deposits of one of these little State banks and you think that would not be violative of the statute as it stood when you were Governor?
- A. It would be violative of the directory statute, yes.
- Q. You think there would be no penalty against the officers of the bank lending him that money?
- A. If it was honestly done and squarely done, I don't think there would be.
- Q. You think not if honestly and squarely done?
- A. Yes, sir.
- Q. In other words, if it were safe?
- A. If it were safe and not done with any fraudulent intent.
- Q. How could there be a fraudulent intent if he simply got all the money and secured it, according to your theory?
- A. Well, as I say, in that event, I don't think it would be.
- Q. Yes, you don't think it would be?
- A. No, sir.
- Q. And your idea, then, of the banking law is that banks were not organized for the benefit of the public to group the assets of the community in the various local banks in the localities in which they were located?
- A. No, I didn't say that, General.
- Q. But one man could get all of the assets and utilize them and keep the rest of the community from participating in them—by being able to give mortgage, and keep the rest of

the community from participating in it?

A. It is a question, after all, of not how much you loan to this man, and to that man, but it is a question of whether the loan is safe, or not.

Q. Whether the loan is safe?

A. In other words—

Q. Isn't there a question in it as to whether one man gets a greater share of the assets of that bank than the law permits him to take?

A. Why, under that theory, why, you would divide it around per capita, and would very certainly lose your money in a very short time. What I mean to say is, that it is a question of whether a man is safe; a loan to one man of \$100,000 may be very much more safe and secure than a loan to one hundred men of \$5000 each.

Q. That still is not the proposition, the question?

A. Well, all right.

Q. The question is, suppose there are five hundred men in a community who are absolutely safe, good borrowers, and yet one man makes a safe borrower for that entire capital stock of that bank, do you mean to say that the law under which you are operating justified him in doing that?

A. No, sir, and there was no such condition obtained at Temple.

Q. Do you mean to say there was nobody in Temple but you who was able to give a good note?

A. Oh, no, I didn't say that, and I believe you don't mean that.

Q. That is your idea, now, of enforcing the banking law, that it was a directory statute, there was no penalty?

A. Yes, sir.

Q. And therefore, it could be violated for your benefit, while you were Governor of the State?

A. Oh, not violated for my benefit, but any man under those conditions could borrow money in that sum.

Q. And that your being Governor of the State, and sworn to enforce all the laws of the State did not prevent you from encouraging the bank cashier and president from violating the law in giving you this overline in credit?

A. Why, my being Governor cut no figure with it, it was just a question of what the common sense cus-

tom was of business, and the banking law and rules.

Q. Your idea is that the banking law must give way wherever the business exigencies interfere with it—is that right?

A. Not a plain law, but a directory statute always.

Q. What do you mean by a "directory" statute, as contradistinguished from a mandatory statute?

A. One that no penalty is attached to it.

Q. One that no penalty is attached to it?

A. Yes, sir.

Q. Isn't a directory statute one that governs court procedure and such other matters that may be dispensed with in the discretion of the court at such times, but do you mean to say that the banking laws of the State and Nation are merely directory when no penalty is attached?

A. I think so.

Q. Do you mean to say that a Governor's official oath or any other officer's official oath binds simply to obey the mandatory statutes, and the statutes that he may be punished for violating?

A. Why, if it was a directory statute, General, with all the power the Governor might have, he would be powerless to do anything if a man violated it.

Q. But wouldn't he—he wouldn't be powerless to try to keep other people from violating it for his benefit, would he?

A. There is nothing he can do.

Q. Couldn't he refuse to take the money?

A. Whom do you mean to take the money?

Q. The Governor?

A. Oh, yes. I thought you were talking about enforcing the law.

Q. Couldn't he use the process of the courts to compel that bank to conform to the law?

A. Well, I don't know; that is a big legal question now, as to whether you could or not.

Q. And couldn't he direct his Banking Commissioner's attention to the fact that it was violating the law and that it ought to be stopped?

A. The Banking Commissioner could in turn tell you it was safe, he thought it was all right, but I don't know what remedy you would have in those cases.

Q. Well, now, didn't the bank examiner all the way through advise the Banking Commissioner that you were violating the law, and that it was an overline, and ought to be stopped?

A. I understand since then that they called attention to my overdrafts.

Q. You have seen the reports and heard them read?

A. Yes, sir, but nobody ever said anything to me about it.

Q. Nobody ever said anything to you about it?

A. About my overline, not at all.

Q. Why, you do not mean to say that the bank president did not complain about it?

A. No, he was entirely satisfied; and in addition to that, told me from time to time not to sell my cattle.

Q. Well, now, Governor, don't you know that the printed record is full of angry letters between Poe and you about your overline?

A. Oh, some letters—that was after we fell out.

Q. Well, but why—didn't the directors come down to see you?

A. But that was after all this row started.

Q. Yes, but were they demanding, did they not insist that you reduce that overline?

A. Not to me.

Q. Why, didn't you say here, and didn't you swear to it, on your direct examination, that those big notes of yours for \$150,000 were given so as to better satisfy them in reference to that matter?

A. That was after the Poe row was raised up here.

Q. Well, now, Governor, don't you know that one of the bank examiners wrote down, and, discussing that question, during all those months, submitted a different proposition as to the adjustment of your overline, but finally this was agreed upon?

A. Not to me he did not.

Q. You mean you never heard of their complaining about it?

A. No, sir. On the other hand, it was absolutely satisfactory.

Q. Why, didn't they put that claim in the hands of a lawyer and weren't they threatening you with a law suit?

A. They did after Mr. Poe was notified that his services would be no longer needed in the bank.

Q. Who notified him of that?

A. I did.

Q. You did? Well, what authority did you have to notify him?

A. Because I was a stockholder in the bank.

Q. You were a stockholder in the bank? But the board of directors were supposed to be running the bank, weren't they?

A. I understand, but let me explain to you now, that that was just previous to the time the annual meeting would come around, and when the stock would be voted, and then the power which I had by virtue of the stockholders' meeting, by voting the stock, could elect such a directory as would elect the proper president, then I told him that for the best interests of the bank it might be, and for all of us, that we could get someone else.

Q. Well, the directors demanded that you reduce that overline?

A. They did after that time, but when they understood the whole thing and they saw where the woodpile was, why, they settled it in the manner stated here, perfectly amicably, they were all perfectly satisfied with it, and they issued a statement in the paper that I was perfectly solvent and good and secure.

Q. But the four notes were given of \$37,500 each?

A. Yes, sir.

Q. And then you were still anxious to get out of that by having your notes transferred to Houston, weren't you?

A. Yes, sir, for the reasons stated yesterday, that I did not want the matter discussed at that time, because we had—already had considerable unnecessary advertising about the matter, and I thought it best under those conditions for me to pay—have those two notes paid.

Q. What time did you serve Poe notice that he would not be needed any more?

A. I didn't serve any notice, I talked the matter over with him.

Q. Well, when did you tell him about it?

A. Well, I think it was some time previous to the first of the year.

General Crane: Mr. President, I find that in going through the various data and collecting it on these various items, that we have not got it quite arranged so as to make the examination as expeditious as I would like to make it, and I there-

fore thought I would suggest to the Court that I believe that we would make greater headway to adjourn over until tomorrow morning, and in the meantime we will have the data so arranged so that we can go right through with it, right along, without any loss of time.

Senator Bee: Mr. President, I move that the Court now rise, to meet at ten o'clock tomorrow morning.

The Chair: The Senator from Bexar moves that the Court now rise to meet at ten o'clock tomorrow morning. Those in favor of the motion, say "Aye," those opposed, "No." The motion prevails and it is so ordered. The Court will rise to convene again at ten o'clock tomorrow morning.

(The Court thereupon adjourned, to reconvene again the following morning at 10 o'clock.)

In the Senate.

President Pro Tem. Dean in the Chair.

House Bill No. 17.

The Chair laid before the Senate, on second reading

H. B. No. 17, A bill to be entitled "An Act creating and establishing the Anahuac Independent School District in Chambers County, Texas; defining its boundaries; providing for a board of trustees to manage and control the public free schools within said district; investing the said district with the rights, powers, privileges and duties of a town or village incorporated under the general laws for free school purposes only; providing for the assumption and refunding by the Anahuac Independent School District as herein defined of the bonded indebtedness of the existing Anahuac Common School District No. 3 of Chambers County, Texas; and validating those obligations; repealing all laws in so far as they conflict herewith, and declaring an emergency."

The Senate rule requiring committee reports to lie over one day was suspended.

The committee report that the bill be not printed was adopted.

The bill was read second time and passed to its third reading.

On motion of Senator Hall, the

constitutional rule requiring bills to be read on three several days was suspended and House Bill No. 17 put on its third reading and final passage by the following vote:

Yeas—23.

Alderdice.	Hudspeth.
Bailey.	Johnson of Hall.
Bee.	Johnston of Harris.
Buchanan of Bell.	Lattimore.
Buchanan of Scurry.	McNealus.
Collins.	Parr.
Dean.	Robbins.
Decherd.	Smith.
Floyd.	Strickland.
Hall.	Suiter.
Henderson.	Westbrook.
Hopkins.	

Absent.

Caldwell.	Harley.
Clark.	Page.
Gibson.	Woodward.

Absent—Excused.

Dayton.	McCollum.
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The bill was laid before the Senate, read third time and, on motion of Senator Hall, was passed by the following vote:

Yeas—23.

Alderdice.	Hopkins.
Bailey.	Hudspeth.
Buchanan of Bell.	Johnson of Hall.
Buchanan of Scurry.	Johnston of Harris.
Collins.	Lattimore.
Dean.	McNealus.
Decherd.	Robbins.
Floyd.	Smith.
Gibson.	Strickland.
Hall.	Suiter.
Harley.	Westbrook.
Henderson.	

Absent.

Bee.	Page.
Caldwell.	Parr.
Clark.	Woodward.

Absent—Excused.

Dayton.	McCollum.
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Senator Hall moved to reconsider the vote by which the bill was passed and table the motion to reconsider.

The motion to table prevailed.

(Senator Hopkins in the Chair.)

Bills and Resolutions.

(By unanimous consent.)

By Senator Hudspeth:

S. B. No. 26, A bill to be entitled "An Act to authorize the Commissioners Court of Brewster County, State of Texas, by a majority vote to issue scrip payable from one to twenty years from date, bearing interest at the rate of not to exceed six per cent; for the purpose of taking up the present indebtedness of the county incurred for the building of roads and bridges in said county; providing that the yearly net revenue, less the necessary sinking fund to cover said scrip issue, may be used by the commissioners court of said county in repairing and building roads and bridges, and declaring an emergency."

Read first time and referred to Committee on Counties and County Boundaries.

Messages from the Governor.

Here Mr. S. Raymond Brooks appeared at the bar of the Senate with several messages from the Governor.

The Chair directed the Secretary to read the messages, which were as follows:

Governor's Office,
Austin, Texas, Sept. 18, 1917.

To the Thirty-fifth Legislature in
Third Called Session:

I beg to submit for the consideration of your honorable body the following subject:

Enactment of a law to authorize the Commissioners Court of Brewster County, Texas, by a majority vote to issue scrip payable from one to twenty years from date, bearing interest at a rate of not to exceed six per cent; for the purpose of taking up the present indebtedness of the county incurred for the building of roads and bridges in said county; providing that the yearly net revenue, less the necessary sinking fund to cover said scrip issue, may be used by the Commissioners Court of said county in repairing and building roads and bridges.

Respectfully submitted,
W. P. HOBBY,
Acting Governor of Texas.

Governor's Office,
Austin, Texas, Sept. 18, 1917.

To the Thirty-fifth Legislature in
Third Called Session:

I beg to submit for the consideration of your honorable body the following subject:

Enactment of a law making appropriations for the purpose of paying deficiency warrants and certificates now outstanding or that may hereafter be issued for the payment of fees and per diem to District Attorneys and Sheriffs, for the fiscal years beginning September 1st, 1915,, and ending August 31st, 1917.

Respectfully submitted,
W. P. HOBBY,
Acting Governor of Texas.

Governor's Office,
Austin, Texas, Sept. 18, 1917.

To the Thirty-fifth Legislature in
Third Called Session:

I beg to submit for the consideration of your honorable body the following subject:

Enactment of a law to regulate the sale of poisons, providing for marking and designating the packages or containers, and for the registration of the name and address of the purchaser, requiring that all records be kept in well bound books, separate from all other records and to be designated "Record of Poison Sales;" designating what poisons are included, and prescribing penalties for violations of such law.

Respectfully submitted,
W. P. HOBBY,
Acting Governor of Texas.

Message from the House.

Hall of the House of Representatives,
Third Called Session, Thirty-fifth
Legislature.

Austin, Texas, Sept. 18, 1917.

Hon. W. L. Dean, President Pro Tem.
of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills:

S. B. No. 14, A bill to be entitled "An Act creating the Rock Island Independent School District as passed by the First Called Session of the Thirty-fifth Legislature."

H. B. No. 24, A bill to be entitled "An Act to amend Article 7235, Title 24, Chapter 6 of the Revised Civil

Statutes, State of Texas for 1911; so as to include therein Madison County."

H. B. No. 4, A bill to be entitled "An Act authorizing counties acting through their commissioners courts to purchase seeds to be planted on farms in such counties by residents thereof who are poor and unable to procure same and to purchase feed for the work stock of such residents, and prescribing the terms and conditions, rules and regulations by which such seeds and feed will be furnished said residents of the counties who are poor and unable to procure the same, and prescribing the amount thereof which may be furnished; authorizing counties to use their general funds for this purpose, where they have such funds; authorizing them to issue warrants against such funds if such counties will have the same when the taxes for the year 1918 are collected; authorizing counties of the State to issue bonds under Title 18, Chapter 1, of the Revised Civil Statutes for the purpose of obtaining funds to be used as aforesaid; prescribing when the commissioners court shall submit the question for the issuance of bonds, the limitations thereof, and making the title and chapter above mentioned applicable to this act; providing how the proceeds of such bonds shall be handled; conferring certain powers and prescribing certain duties relative to administration of this act on the commissioners courts and the county clerks of the various counties of the State; defining the terms of the application and the contract by which residents of the counties acting within the purview of this act may obtain seed and feed thereunder, and providing for the payment thereof by such persons; conferring certain powers and authority upon the county treasurer and the county attorney relative to the administration of this act; providing the terms and conditions upon which the State will advance certain amounts to the various counties of the State to augment the funds provided for the purchase of seeds and feed, and the distribution of the same hereunder; stating the percentage of the amount

which the State will advance, and the terms and conditions thereof; prescribing certain duties for the Commissioner of Agriculture, the State Treasurer, the Comptroller of Public Accounts, and the Attorney General of the State of Texas, relative to the administration of this act; providing for the repayment to the State of funds advanced by it; defining and creating certain offenses for violations of the terms of this act; and providing punishment therefor; stating when operation may be commenced under this act and when the distribution of seed and feed hereunder shall cease; making an appropriation for carrying out the purposes of this act in the sum of five thousand dollars (\$5000) and declaring an emergency."

Respectfully,

BOB BARKER,

Chief Clerk, House of Representatives.

Bills Read and Referred.

. The Chair, Senator Hopkins, had referred after their captions had been read, the following House Bills:

House Bill No. 4, referred to the committee on Agricultural Affairs.

House Bill No. 24, referred to the committee on Stock and Stock Raising.

Free Conference Committee Report on Senate Bill No. 8.

Austin, Texas, Sept. 14, 1917.

Hon W. L. Dean, President Pro Tempore of the Senate and Hon. F. O. Fuller, Speaker of the House of Representatives.

Sirs: Your Free Conference Committee selected and appointed to adjust the difference between the Senate and the House on Senate Bill No. 8, have had the same under consideration, and beg leave to report as follows, to wit:

We recommend that the House recede from House Amendments Nos. 1 and 3 to Senate Bill No. 8.

We further recommend that the

Senate concur in House amendment No. 2 to Senate Bill No. 8.

Respectfully submitted,
HENDERSON,
BEE,
JOHNSTON of Harris,
BAILEY,
HARLEY,

On the Part of the Senate.

HOLLAND,
JOHNSON,
DUDLEY,
FISHER,
MENDELL,

On the Part of the House.

Senator Henderson moved the adoption of the report.

As a substitute Senator Harley moved to refuse to adopt the report of the Free Conference Committee, and refer same back to the committee for further conference.

Senator Hudspeth made the point of order that a Conference Committee report could not be recommitted, but must either be adopted or rejected by the Senate.

The Chair, Senator Hopkins, overruled the point of order.

Action recurred upon the substitute motion of Senator Harley and Senator McNealus made the point of order that a Free Conference Committee could not be appointed or elected until after a Conference Committee has been selected and its report rejected by the Senate, and that this report is not properly before the Senate.

The Chair overruled the point of order, holding that inasmuch as the Senate had asked for a Free Conference Committee and had elected the same, that the House had granted the request and appointed a Free Conference Committee, that the Senate could not at this time go behind this action on a point of order; and further, that in this instance the committee had not incorporated in its report any new matter; nor otherwise exceeded its authority and therefore it is immaterial whether it be termed a "Free" Conference Committee or merely a Conference Committee; there being no substantial difference in the two.

Action recurred upon the substitute motion of Senator Harley and the same was lost by the following vote:

Yeas—11.

Clark.	McNealus.
Floyd.	Parr.
Harley.	Smith.
Hopkins.	Strickland.
Hudspeth.	Suiter.
Johnson of Hall.	

Nays—12.

Bailey.	Dean.
Bee.	Decherd.
Buchanan of Bell.	Henderson.
Buchanan of Scurry.	Johnston of Harris.
Caldwell.	Lattimore.
Collins.	Robbins.

Absent.

Alderdice.	Page.
Gibson.	Westbrook.
Hall.	Woodward.

Absent—Excused.

Dayton.	McCollum.
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The motion to adopt the report of the Free Conference Committee then prevailed.

Senator Bailey moved to reconsider the vote by which the report was adopted and table the motion to reconsider.

The motion to table prevailed.

Adjournment.

At 5:30 o'clock p. m. Senator Lattimore moved that the Senate adjourn until 9:30 o'clock tomorrow morning.

The motion prevailed.

APPENDIX.

Engrossing Committee Reports.

Committee Room.

Austin, Texas, Sept. 18, 1917.

Hon. W. L. Dean, President Pro Tem. of the Senate.

Sir: Your committee on Engrossed Bills has had Senate Bill No. 17 carefully compared, and finds the same correctly engrossed.

ALDERDICE, Chairman.

Committee Room.

Austin, Texas, Sept. 18, 1917.

Hon. W. L. Dean, President Pro Tem. of the Senate.

Sir: Your committee on Engrossed Bills has had Senate Bill No. 6 carefully compared, and finds the same correctly engrossed.

ALDERDICE, Chairman.

Committee Reports.

Committee Room.

Austin, Texas, Sept. 18, 1917.

Hon. W. L. Dean, President Pro Tem. of the Senate.

Sir: Your Committee on Education, to whom was referred

House Bill No. 17, the same being an Act to establish the Anahuac Independent School District in Chambers County, Texas,

Have had the same under consideration and I am instructed to report the same back with the recommendation that it do pass and be not printed.

BEE, Chairman.

(Floor Report.)

Senate Chamber,

Austin, Texas, Sept. 18, 1917.

Hon. W. L. Dean, President Pro Tem. of the Senate.

Sir: Your Committee on Roads, Bridges and Ferries, to whom was referred

H. B. No. 10, A bill to be entitled "An Act to amend the special road law for Cass County,"

Have had the same under consideration, and beg leave to report the same back to the Senate with the recommendation that it do pass and be not printed.

Caldwell, Chairman; Floyd, Smith, Clark, Buchanan of Scurry, Gibson, Strickland.

(Floor Report.)

Senate Chamber,

Austin, Texas, Sept. 18, 1917.

Hon. W. L. Dean, President Pro Tem. of the Senate.

Sir: We your Committee on County Boundaries, to whom was referred

S. B. No. 26, A bill to be

entitled "An Act to authorize the Commissioners Court of Brewster County, State of Texas, by a majority vote to issue scrip payable from one to twenty years from date, bearing interest at the rate of not to exceed six per cent; for the purpose of taking up the present indebtedness of the county incurred for the building of roads and bridges in said county; providing that the yearly net revenue, less the necessary sinking fund to cover said scrip issue, may be used by the commissioners' court of said county in repairing and building roads and bridges, and declaring an emergency,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass and be not printed.

Parr, Chairman; Johnston of Harris, Smith.

FOURTEENTH DAY.

Senate Chamber,

Austin, Texas,

Wednesday, Sept. 19, 1917.

The Senate met at 9:30 o'clock a. m. pursuant to adjournment, and was called to order by President Pro Tem. Dean.

By unanimous consent, and on request of Senator Johnson of Hall the Senate stood at ease for fifteen minutes, at the expiration of which time the roll was called, a quorum being present, the following Senators answering to their names:

Alderdice.	Hopkins.
Bailey.	Hudspeth.
Bee.	Johnson of Hall.
Buchanan of Bell.	Johnston of Harris.
Buchanan of Scurry.	Lattimore.
Caldwell.	McNealus.
Clark.	Page.
Collins.	Parr.
Dean.	Robbins.
Decherd.	Smith.
Floyd.	Strickland.
Gibson.	Suiter.
Hall.	Westbrook.
Harley.	Woodward.
Henderson.	

Absent—Excused.

Dayton.

McCollum.

Prayer by the Chaplain.